

**FUNDS CONSOLIDATION, BUDGET  
PROCEDURES, AND FUND  
RECLASSIFICATION AMENDMENTS**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ron Bigelow**

**This act modifies the accounting classifications of certain funds to comply with generally accepted accounting principles and changes the names of certain funds to correspond with their new classifications. This act also creates a new type of fund, "Restricted Special Revenue Fund," within the Special Revenue Funds major fund type because of changes in generally accepted accounting principles. This act also designates certain existing special revenue funds as restricted special revenue funds. This act makes technical corrections. This act takes effect July 1, 2002.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**4-21-3**, as last amended by Chapter 10, Laws of Utah 1986, Second Special Session

**9-6-502**, as renumbered and amended by Chapter 241, Laws of Utah 1992

**9-7-203**, as last amended by Chapter 32, Laws of Utah 1995

**9-7-206**, as renumbered and amended by Chapter 241, Laws of Utah 1992

**9-8-702**, as enacted by Chapter 121, Laws of Utah 1991

**9-10-102**, as last amended by Chapter 175, Laws of Utah 2001

**9-11-104**, as last amended by Chapter 175, Laws of Utah 2001

**9-14-102**, as enacted by Chapter 368, Laws of Utah 1999

**9-15-102**, as last amended by Chapter 299, Laws of Utah 2000

**11-38-301**, as enacted by Chapter 24, Laws of Utah 1999

**13-2-8**, as renumbered and amended by Chapter 177, Laws of Utah 1994

**19-6-307**, as last amended by Chapter 324, Laws of Utah 1995



28        **19-6-405.7**, as enacted by Chapter 255, Laws of Utah 1998  
29        **19-6-409**, as last amended by Chapter 21, Laws of Utah 1999  
30        **19-6-803**, as last amended by Chapter 165, Laws of Utah 2001  
31        **19-6-804**, as last amended by Chapter 9, Laws of Utah 2001  
32        **19-6-807**, as last amended by Chapter 32 and renumbered and amended by Chapter 51,  
33        Laws of Utah 2000  
34        **19-6-808**, as renumbered and amended by Chapter 51, Laws of Utah 2000  
35        **19-6-811**, as last amended by Chapter 165, Laws of Utah 2001  
36        **19-6-813**, as last amended by Chapters 165 and 275, Laws of Utah 2001  
37        **19-6-815**, as last amended by Chapter 165, Laws of Utah 2001  
38        **19-6-816**, as last amended by Chapter 165, Laws of Utah 2001  
39        **19-6-817**, as renumbered and amended by Chapter 51, Laws of Utah 2000  
40        **19-6-821**, as renumbered and amended by Chapter 51, Laws of Utah 2000  
41        **19-6-824**, as enacted by Chapter 32, Laws of Utah 2000  
42        **26-10-2.5**, as enacted by Chapter 230, Laws of Utah 1991  
43        **35A-3-206**, as renumbered and amended by Chapter 375, Laws of Utah 1997  
44        **38-11-201**, as last amended by Chapter 172, Laws of Utah 1995  
45        **40-6-19**, as enacted by Chapter 154, Laws of Utah 1997  
46        **40-10-25.1**, as last amended by Chapter 4, Laws of Utah 1995  
47        **51-5-4**, as last amended by Chapter 175, Laws of Utah 2001  
48        **51-5-7**, as last amended by Chapters 154 and 194, Laws of Utah 1986  
49        **53-6-213**, as last amended by Chapter 92, Laws of Utah 1999  
50        **53C-5-104**, as enacted by Chapter 294, Laws of Utah 1994  
51        **54-8b-15**, as enacted by Chapter 122, Laws of Utah 1997  
52        **58-3a-103**, as enacted by Chapter 260, Laws of Utah 1996  
53        **58-11a-103**, as enacted by Chapter 204, Laws of Utah 2001  
54        **58-22-103**, as last amended by Chapter 259, Laws of Utah 1996  
55        **58-53-103**, as renumbered and amended by Chapter 191, Laws of Utah 1998  
56        **58-67a-1**, as enacted by Chapters 248 and 282, Laws of Utah 1996  
57        **59-10-548**, as renumbered and amended by Chapter 2, Laws of Utah 1987  
58        **61-1-18.7**, as last amended by Chapter 216, Laws of Utah 1992

59        **61-2a-3**, as last amended by Chapter 239, Laws of Utah 1991  
60        **62A-8-103**, as last amended by Chapter 106, Laws of Utah 1999  
61        **62A-12-102**, as last amended by Chapter 106, Laws of Utah 1999  
62        **62A-12-204**, as last amended by Chapter 76, Laws of Utah 1990  
63        **63-25a-402**, as last amended by Chapter 235, Laws of Utah 2000  
64        **63-25a-405**, as last amended by Chapter 308, Laws of Utah 1997  
65        **63-25a-406**, as last amended by Chapter 235, Laws of Utah 2000  
66        **63-25a-407**, as renumbered and amended by Chapter 242, Laws of Utah 1996  
67        **63-25a-411**, as last amended by Chapter 235, Laws of Utah 2000  
68        **63-25a-414**, as renumbered and amended by Chapter 242, Laws of Utah 1996  
69        **63-25a-419**, as last amended by Chapter 235, Laws of Utah 2000  
70        **63-25a-428**, as last amended by Chapter 235, Laws of Utah 2000  
71        **63-38-8**, as last amended by Chapter 175, Laws of Utah 2001  
72        **63-63a-4**, as last amended by Chapter 220, Laws of Utah 2001  
73        **63-73-21**, as enacted by Chapter 19, Laws of Utah 1996  
74        **63C-9-502**, as enacted by Chapter 285, Laws of Utah 1998  
75        **65A-8-6.1**, as last amended by Chapter 81, Laws of Utah 2001  
76        **67-4a-405**, as last amended by Chapter 241, Laws of Utah 1996  
77        **67-5a-8**, as enacted by Chapter 136, Laws of Utah 1990  
78        **71-11-8 (Effective 07/01/02)**, as last amended by Chapter 134, Laws of Utah 2000  
79        **71-11-9**, as enacted by Chapter 217, Laws of Utah 1995  
80        **73-5-1.5**, as enacted by Chapter 9, Laws of Utah 1999  
81        **76-10-922**, as enacted by Chapter 79, Laws of Utah 1979  
82        **77-32-502**, as last amended by Chapter 318, Laws of Utah 2000  
83        **77-32-601**, as last amended by Chapter 209, Laws of Utah 2001  
84        **77-32-701**, as enacted by Chapter 354, Laws of Utah 1997  
85        **78-14-12**, as last amended by Chapter 137, Laws of Utah 1997

86        *Be it enacted by the Legislature of the state of Utah:*

87        Section 1. Section **4-21-3** is amended to read:

88        **4-21-3. Beef promotion fee -- Deposit of revenue -- Fee set by referendum --**  
89        **Reduction for amounts paid under federal law.**

(1) (a) The department shall collect a fee established as required by Subsection (2), on all fee brand inspected cattle upon change of ownership or slaughter~~[-The]~~ in an amount ~~[of the fee is set by the department as provided in Subsection (2), but shall]~~ not ~~[exceed]~~ more than \$1 or [be] less than 25 cents.

(b) The fee is collected by the local brand inspector at the time of inspection of cattle, or deducted and collected by the marketing agency or the purchaser.

(c) All revenue collected under this section shall be paid to the department which shall deposit the revenue in ~~[a trust and]~~ an agency fund ~~[account]~~ that is hereby created and shall be known as the "Beef Promotion ~~[Account]~~ Fund."

(2) Before a fee assessed under Subsection (1) becomes effective, the department shall give notice of the proposed fee to all known beef and dairy cattle producers in the state, invite all beef and dairy cattle producers to register to vote in a referendum, conduct a hearing on the proposed fee change, and conduct a referendum where at least 50% of the registered producers cast a vote with a majority of those voting casting an affirmative vote on the proposed fee level. ~~[The fee shall not exceed \$1 or be less than 25 cents as provided in Subsection (1).]~~

(3) Any fee currently assessed by the department continues in effect until modified by the department under Subsections (1) and (2).

(4) The fee assessed under this section shall be reduced by the amount of any assessment required to be paid pursuant to the Beef Promotion and Research Act of 1985, 7 U.S.C. Sec. 2901 et seq.

Section 2. Section **9-6-502** is amended to read:

**9-6-502. Utah Arts Endowment Fund.**

(1) There is created a ~~[trust and agency]~~ restricted special revenue fund known as the "Utah Arts Endowment Fund."

(2) The state fund shall be administered by the board in accordance with applicable law.

(3) Any administrative costs incurred by the board shall be reviewed by the appropriate appropriations committee of the Legislature.

(4) The state fund shall contain all moneys appropriated to it by the Legislature, all federal funds received for purposes of this part, plus interest and other income earned on them.

(5) The purpose of the state fund is to provide moneys to qualifying arts organizations to enable them to create their own arts endowment funds and to the board to administer the state

fund.

Section 3. Section **9-7-203** is amended to read:

**9-7-203. Division duties.**

The division shall:

(1) establish, operate, and maintain a state publications collection, a bibliographic control system, and depositories as provided in this part;

(2) cooperate with other agencies to facilitate public access to government information through electronic networks or other means;

(3) cooperate with other state or national libraries or library agencies;

(4) cooperate with the federal government or agencies in accepting federal aid whether in the form of funds or otherwise;

(5) receive bequests, gifts, and endowments of money and deposit the funds with the state treasurer to be placed in the State Library Donation [~~Expendable Trust~~] Fund, which funds shall be held for the purpose, if any, specifically directed by the donor; and

(6) receive bequests, gifts, and endowments of property to be held, used, or disposed of, as directed by the donor, with the approval of the Division of Finance.

Section 4. Section **9-7-206** is amended to read:

**9-7-206. State Library Donation Fund -- Deposits and fees.**

(1) There is created a [~~trust and agency~~] restricted special revenue fund entitled the "State Library Donation [~~Expendable Trust~~] Fund" to receive bequests, gifts, and endowments of money.

(2) Any interest or proceeds realized from the use or disposition of property received by the division or interest on the [~~trust and agency~~] fund itself shall be deposited in the State Library Donation [~~Expendable Trust~~] Fund and used by the State Library Division for the purposes specified by the donor.

(3) All fees paid to the library and collections made due to damaged books or through sale or exchange of books and other materials shall be deposited in the General Fund as dedicated credits for use by the State Library Division.

Section 5. Section **9-8-702** is amended to read:

**9-8-702. Utah History Endowment Fund.**

There is created a [~~trust and agency~~] restricted special revenue fund known as the "Utah History Endowment Fund." The state fund shall be administered by the Division of Finance in

accordance with applicable law. The state fund shall contain all monies appropriated to it by the Legislature and the interest and other income earned on the fund. The purpose of the state fund is to provide monies to qualifying organizations to enable them to create their own history endowment funds.

Section 6. Section **9-10-102** is amended to read:

**9-10-102. Legislative intent -- Uintah Basin Revitalization Fund -- Deposits and contents.**

(1) In order to maximize the long-term benefit of severance taxes derived from lands held in trust by the United States for the Tribe and its members by fostering funding mechanisms that will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of the Uintah Basin, and in order to promote cooperation and coordination between the state, its political subdivisions, Indian tribes, and individuals, firms, and business organizations engaged in the development of oil and gas interests held in trust for the Tribe and its members, there is created a restricted special revenue fund entitled the "Uintah Basin Revitalization Fund."

(2) The fund consists of all monies deposited to the Revitalization Fund under this part and Section 59-5-116.

(3) (a) The Revitalization Fund shall earn interest.

(b) All interest earned on fund monies shall be deposited into the fund.

Section 7. Section **9-11-104** is amended to read:

**9-11-104. San Juan Navajo Revitalization Fund.**

(1) (a) There is created a restricted special revenue fund called the "Navajo Revitalization Fund."

(b) The fund shall consist of:

(i) monies deposited to the fund under this chapter;

(ii) monies deposited to the fund under Section 59-5-119; and

(iii) any loan repayment or interest on a loan issued under this chapter.

(2) (a) The revitalization fund shall earn interest.

(b) All interest earned on fund monies shall be deposited into the fund.

(3) Any unallocated balance in the fund at the end of a fiscal year shall be nonlapsing.

(4) The division may use fund monies for the administration of the fund, but this amount

may not exceed 2% of the annual receipts to the fund.

Section 8. Section **9-14-102** is amended to read:

**9-14-102. Rural Development Fund -- Deposits and contents -- Interest -- Administration.**

(1) In order to compensate for the effects of the federal-state land exchange identified in Section 53C-3-201 that have a significant social or economic impact on rural areas of the state located in close proximity to where the former state lands are now designated as federal lands, there is created a restricted special revenue fund entitled the "Rural Development Fund."

(2) The development fund sources of revenue are:

(a) monies deposited to the fund under this chapter; and

(b) monies deposited to the fund under Section 53C-3-202.

(3) The development fund shall earn interest, which shall be deposited in the development fund.

(4) The division may use development fund monies for administration of the fund, but not to exceed 2% of the annual receipts to the fund.

(5) Any unallocated balance in the fund at the end of a fiscal year shall be nonlapsing.

Section 9. Section **9-15-102** is amended to read:

**9-15-102. Rural Electronic Commerce Communications System Fund -- Deposits and contents -- Interest -- Administration.**

(1) In order to preserve and promote communications systems, such as broadcast television, in the rural areas of the state, there is created a restricted special revenue fund entitled the "Rural Electronic Commerce Communications System Fund."

(2) The fund shall consist of:

(a) monies deposited to the fund under this chapter;

(b) monies deposited to the fund under Section 53C-3-202; and

(c) bond proceeds from the issuance and sale of revenue bonds authorized under Subsection 9-15-104(2).

(3) The fund shall earn interest, which shall be deposited in the fund.

(4) Any unallocated balance in the fund at the end of a fiscal year shall be nonlapsing.

(5) The division may use fund monies for administration of the fund, but not to exceed 2% of the annual receipts to the fund.

Section 10. Section **11-38-301** is amended to read:

**11-38-301. LeRay McAllister Critical Land Conservation Fund.**

(1) There is created a restricted special revenue fund entitled the "LeRay McAllister Critical Land Conservation Fund," consisting of:

- (a) money appropriated or otherwise made available by the Legislature;
- (b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations;
- (c) proceeds that a department chooses to place into the fund from the sale of surplus land under Subsection (2); and
- (d) funds from the State Building Energy Efficiency Program.

(2) The Department of Administrative Services, the Department of Agriculture and Food, the Department of Natural Resources, and the Department of Transportation may place proceeds from the sale of surplus land into the fund.

(3) The total amount of money in the fund may not exceed \$6,000,000.

Section 11. Section **13-2-8** is amended to read:

**13-2-8. Consumer Protection Education and Training Fund.**

(1) There is created a restricted special revenue fund known as the "Consumer Protection Education and Training Fund."

(2) Unless otherwise provided by a chapter listed in Section 13-2-1, all money not distributed as consumer restitution that is received by the division from administrative fines and settlements, from criminal restitution, or from civil damages, forfeitures, penalties, and settlements when the division receives the monies on its own behalf and not in a representative capacity, shall be deposited into the fund.

(3) Notwithstanding Title 63, Chapter 38, Budgetary Procedures Act, the division may use the fund with the approval of the executive director of the Department of Commerce in a manner consistent with the duties of the division under this chapter for:

- (a) consumer protection education for members of the public;
- (b) equipment for and training of division personnel;
- (c) publication of consumer protection brochures, laws, policy statements, or other material relevant to the division's enforcement efforts; and
- (d) investigation and litigation undertaken by the division.



(4) If the balance in the fund exceeds \$75,000 at the close of any fiscal year, the excess shall be transferred to the General Fund.

Section 12. Section **19-6-307** is amended to read:

**19-6-307. Hazardous Substances Mitigation Fund -- Uses.**

(1) There is created [~~an expendable trust~~] a restricted special revenue fund entitled the "Hazardous Substances Mitigation Fund."

(2) The fund consists of monies generated from the following revenue sources:

(a) any voluntary contributions received for the cleanup of hazardous substances facilities;

(b) appropriations made to the fund by the Legislature; and

(c) monies received by the state under Section 19-6-310 and Section 19-6-316.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund monies shall be deposited into the fund.

(4) The executive director may use fund monies to:

(a) take emergency action as provided in Sections 19-6-309 and 19-6-310;

(b) conduct remedial investigations as provided in Sections 19-6-314 through 19-6-316;

(c) pay the amount required by the federal government as the state's portion of the cost of cleanups under authority of CERCLA, as appropriated by the Legislature for that purpose; and

(d) pay the amount required by the federal government as the state's portion of the cost of cleanups under 42 U.S.C. 6991 et seq., the Leaking Underground Storage Tank Trust Fund, as appropriated by the Legislature for that purpose.

Section 13. Section **19-6-405.7** is amended to read:

**19-6-405.7. Petroleum Storage Tank Cleanup Fund - Revenue and purposes.**

(1) There is created [~~an expendable~~] a private-purpose trust fund entitled the "Petroleum Storage Tank Cleanup Fund," which is referred to in this section as the cleanup fund.

(2) The cleanup fund sources of revenue are:

(a) any voluntary contributions received by the department for the cleanup of facilities;

(b) legislative appropriations made to the cleanup fund; and

(c) costs recovered under this part.

(3) The cleanup fund shall earn interest, which shall be deposited in the cleanup fund.

(4) The executive secretary may use the cleanup fund monies for administration, investigation, abatement action, and preparing and implementing a corrective action plan regarding

releases not covered by the Petroleum Storage Tank Trust Fund created in Section 19-6-409.

Section 14. Section **19-6-409** is amended to read:

**19-6-409. Petroleum Storage Tank Trust Fund created -- Source of revenues.**

(1) (a) There is created [~~an expendable~~] a private-purpose trust fund entitled the "Petroleum Storage Tank Trust Fund."

(b) The sole sources of revenues for the fund are:

(i) petroleum storage tank fees under Section 19-6-411;

(ii) underground storage tank installation company permit fees under Section 19-6-411;

(iii) the environmental assurance fee and any penalties, paid under Section 19-6-410.5; and

(iv) any interest accrued on these revenues.

(c) Interest earned on fund monies shall be deposited into the fund.

(2) Fund monies may be used to pay:

(a) costs as provided in Section 19-6-419; and

(b) for the administration of the fund and the environmental assurance program and fee under Section 19-6-410.5.

(3) Costs for the administration of the fund and the environmental assurance fee shall be appropriated by the Legislature.

(4) The executive secretary may expend monies from the fund for:

(a) legal and claims adjusting costs incurred by the state in connection with claims, judgments, awards, or settlements for bodily injury or property damage to third parties;

(b) costs incurred by the state risk manager in determining the actuarial soundness of the fund; and

(c) other costs as provided in this part.

~~[(5) For fiscal year 1997-98, money in the Petroleum Storage Tank Trust Fund, up to a maximum of \$2,200,000, may be appropriated by the Legislature to the department as nonlapsing funds to be applied to the costs of investigation, abatement, and corrective action regarding releases not covered by the fund and not on the national priority list as defined in Section 19-6-302.]~~

~~[(6) The Legislature may appropriate \$2,000,000 for fiscal year 1998-99 from the Petroleum Storage Tank Trust Fund to the Petroleum Storage Tank Cleanup Fund created in Section 19-6-405.7.]~~

[~~(7) For fiscal year 1998-99, up to \$5,000,000 in the Petroleum Storage Tank Fund carried forward to the Petroleum Storage Tank Trust Fund may be appropriated by the Legislature to the Centennial Highway Fund created under Section 72-2-118.~~]

Section 15. Section **19-6-803** is amended to read:

**19-6-803. Definitions.**

As used in this part:

(1) "Abandoned waste tire pile" means a waste tire pile regarding which the local department of health has not been able to:

(a) locate the persons responsible for the tire pile; or

(b) cause the persons responsible for the tire pile to remove it.

(2) (a) "Beneficial use" means the use of chipped tires in a manner that is not recycling, storage, or disposal, but that serves as a replacement for another product or material for specific purposes.

(b) "Beneficial use" includes the use of chipped tires:

(i) as daily landfill cover;

(ii) for civil engineering purposes;

(iii) as low-density, light-weight aggregate fill; or

(iv) for septic or drain field construction.

(c) "Beneficial use" does not include the use of waste tires or material derived from waste tires:

(i) in the construction of fences; or

(ii) as fill, other than low-density, light-weight aggregate fill.

(3) "Board" means the Solid and Hazardous Waste Control Board created under Section 19-1-106.

(4) "Chip" or "chipped tire" means a two inch square or smaller piece of a waste tire.

(5) "Commission" means the Utah State Tax Commission.

(6) (a) "Consumer" means a person who purchases a new tire to satisfy a direct need, rather than for resale.

(b) "Consumer" includes a person who purchases a new tire for a motor vehicle to be rented or leased.

(7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise

reduced in size such that the particles are less than or equal to 3/8 inch in diameter and are 98% wire free by weight.

(8) "Disposal" means the deposit, dumping, or permanent placement of any waste tire in or on any land or in any water in the state.

(9) "Dispose of" means to deposit, dump, or permanently place any waste tire in or on any land or in any water in the state.

(10) "Division" means the Division of Solid and Hazardous Waste created in Section 19-1-105, within the Department of Environmental Quality.

(11) "Executive secretary" means the executive secretary of the Solid and Hazardous Waste Control Board created in Section 19-1-106.

(12) "Fund" means the Waste Tire Recycling Fund created in Section 19-6-807.

~~[(12)]~~ (13) "Landfill waste tire pile" means a waste tire pile:

(a) located within the permitted boundary of a landfill operated by a governmental entity; and

(b) consisting solely of waste tires brought to a landfill for disposal and diverted from the landfill waste stream to the waste tire pile.

~~[(13)]~~ (14) "Local health department" means the city-county health department or district health department, as defined in Section 26A-1-102, with jurisdiction over the recycler.

~~[(14)]~~ (15) "Materials derived from waste tires" means tire sections, tire chips, tire shreds, rubber, steel, fabric, or other similar materials derived from waste tires.

~~[(15)]~~ (16) "Mobile facility" means a mobile facility capable of cutting waste tires on site so the waste tires may be effectively disposed of by burial, such as in a landfill.

~~[(16)]~~ (17) "New motor vehicle" means a motor vehicle which has never been titled or registered.

~~[(17)]~~ (18) "Passenger tire equivalent" means a measure of mixed sizes of tires where each 25 pounds of whole tires or material derived from waste tires is equal to one waste tire.

~~[(18)]~~ (19) "Proceeds of the fee" means the money collected by the commission from payment of the recycling fee including interest and penalties on delinquent payments.

~~[(19)]~~ (20) "Recycler" means a person who:

(a) annually uses, or can reasonably be expected within the next year to use, a minimum of 100,000 waste tires generated in the state or 1,000 tons of waste tires generated in the state to

369 recover energy or produce energy, crumb rubber, chipped tires, or an ultimate product; and

370 (b) is registered as a recycler in accordance with Section 19-6-806.

371 ~~[(20)]~~ (21) "Recycling fee" means the fee provided for in Section 19-6-805.

372 ~~[(21)]~~ (22) "Shredded waste tires" means waste tires or material derived from waste tires  
373 that has been reduced to a six inch square or smaller.

374 ~~[(22)]~~ (23) (a) "Storage" means the placement of waste tires in a manner that does not  
375 constitute disposal of the waste tires.

376 (b) "Storage" does not include:

377 (i) the use of waste tires as ballast to maintain covers on agricultural materials or to  
378 maintain covers at a construction site; or

379 (ii) the storage for five or fewer days of waste tires or material derived from waste tires  
380 that are to be recycled or applied to a beneficial use.

381 ~~[(23)]~~ (24) (a) "Store" means to place waste tires in a manner that does not constitute  
382 disposal of the waste tires.

383 (b) "Store" does not include:

384 (i) to use waste tires as ballast to maintain covers on agricultural materials or to maintain  
385 covers at a construction site; or

386 (ii) to store for five or fewer days waste tires or material derived from waste tires that are  
387 to be recycled or applied to a beneficial use.

388 ~~[(24)]~~ (25) "Tire" means a pneumatic rubber covering designed to encircle the wheel of  
389 a vehicle in which a person or property is or may be transported or drawn upon a highway.

390 ~~[(25)]~~ (26) "Tire retailer" means any person engaged in the business of selling new tires  
391 either as replacement tires or as part of a new vehicle sale.

392 ~~[(26)] "Trust fund" means the Waste Tire Recycling Expendable Trust Fund provided for~~  
393 ~~in Section 19-6-807.]~~

394 (27) (a) "Ultimate product" means a product that has as a component materials derived  
395 from waste tires and that the executive secretary finds has a demonstrated market.

396 (b) "Ultimate product" includes pyrolized materials derived from:

397 (i) waste tires; or

398 (ii) chipped tires.

399 (c) "Ultimate product" does not include a product regarding which a waste tire remains

after the product is disposed of or disassembled.

(28) "Waste tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

(29) "Waste tire pile" means a pile of 1,000 or more waste tires at one location.

(30) (a) "Waste tire transporter" means a person or entity engaged in picking up or transporting at one time more than ten whole waste tires, or the equivalent amount of material derived from waste tires, generated in Utah for the purpose of storage, processing, or disposal.

(b) "Waste tire transporter" includes any person engaged in the business of collecting, hauling, or transporting waste tires or who performs these functions for another person, except as provided in Subsection (30)(c).

(c) "Waste tire transporter" does not include:

(i) a person transporting waste tires generated solely by:

(A) that person's personal vehicles;

(B) a commercial vehicle fleet owned or operated by that person or that person's employer;

(C) vehicles sold, leased, or purchased by a motor vehicle dealership owned or operated by that person or that person's employer; or

(D) a retail tire business owned or operated by that person or that person's employer;

(ii) a solid waste collector operating under a license issued by a unit of local government as defined in Section 63-51-2, or a local health department;

(iii) a recycler of waste tires;

(iv) a person transporting tires by rail as a common carrier subject to federal regulation; or

(v) a person transporting processed or chipped tires.

Section 16. Section **19-6-804** is amended to read:

**19-6-804. Restrictions on disposal of tires -- Penalties.**

(1) (a) After January 1, 1994, an individual, including a waste tire transporter, may not dispose of more than four whole tires at one time in a landfill or any other location in the state authorized by the executive secretary to receive waste tires, except for purposes authorized by board rule.

(b) Tires are exempt from this Subsection (1) if the original tire has a rim diameter greater than 24.5 inches.

(c) No person, including a waste tire transporter, may dispose of waste tires or store waste

tires in any manner not allowed under this part or rules made under this part.

(2) The operator of the landfill or other authorized location shall direct that the waste tires be disposed in a designated area to facilitate retrieval if a market becomes available for the disposed waste tires or material derived from waste tires.

(3) An individual, including a waste tire transporter, may dispose of shredded waste tires in a landfill in accordance with Section 19-6-812, and may also, without reimbursement, dispose in a landfill materials derived from waste tires that do not qualify for reimbursement under Section 19-6-812, but the landfill shall dispose of the material in accordance with Section 19-6-812.

(4) (a) An individual, including a waste tire transporter, violating this section is subject to enforcement proceedings and a civil penalty of not more than \$100 per waste tire or per passenger tire equivalent disposed of in violation of this section. A warning notice may be issued prior to taking further enforcement action under this Subsection (4).

(b) A civil proceeding to enforce this section and collect penalties under this section may be brought in the district court where the violation occurred by the board, the local health department, or the county attorney having jurisdiction over the location where the tires were disposed in violation of this section.

(c) Penalties collected under this section shall be deposited in the [trust] fund.

Section 17. Section **19-6-807** is amended to read:

**19-6-807. Special revenue fund -- Creation -- Deposits.**

(1) There is created a restricted special revenue fund entitled the "Waste Tire Recycling [Expendable Trust] Fund."

(2) The ~~[contents of the trust]~~ fund shall consist of:

(a) the proceeds of the fee imposed under Section 19-6-805;

(b) penalties collected under this part; and

(c) assets transferred to and loan repayments deposited in the [trust] fund pursuant to Section 19-6-824.

(3) Money in the [trust] fund shall be used for:

(a) partial reimbursement of the costs of transporting, processing, recycling, or disposing of waste tires as provided in this part;

(b) payment of administrative costs of local health departments as provided in Section 19-6-817;

(c) payment of costs incurred by the Division of Finance in accounting for and tracking outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan Program; and

(d) payment of costs incurred by the Department of Community and Economic Development in collecting outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan Program.

(4) The Legislature may appropriate money from the [trust] fund to pay for costs of the Department of Environmental Quality in administering and enforcing this part.

Section 18. Section **19-6-808** is amended to read:

**19-6-808. Payment of recycling fee.**

(1) The recycling fee shall be paid by the tire retailer to the commission:

(a) on or before the last day of the month following the calendar quarter in which the sale occurs for quarterly filers; and

(b) the last day of January following the end of the calendar year for annual filers.

(2) The payment shall be accompanied by the form prescribed by the commission.

(3) (a) The proceeds of the fee shall be transferred by the commission to the [trust] fund for payment of partial reimbursement.

(b) The commission may retain an amount not to exceed 2-1/2% of the recycling fee collected under this part for the cost to it of rendering its services.

(4) (a) The commission shall administer, collect, and enforce the fee authorized under this part pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, and the provisions of Title 59, Chapter 1, General Taxation Policies. The tire retailer may retain 2-1/2% of the recycling fee collected under this part for the cost of collecting the fee.

(b) The exemptions from the general state sales and use tax provided for in Section 59-12-104 do not apply to this part.

(5) The fee imposed by this part is in addition to all other state, county, or municipal fees and taxes imposed on the sale of new tires.

Section 19. Section **19-6-811** is amended to read:

**19-6-811. Funding for management of certain landfill or abandoned waste tire piles -- Limitations.**

(1) (a) A county or municipality may apply to the executive secretary for payment from



the [trust] fund for costs of a waste tire transporter or recycler to remove waste tires from an abandoned waste tire pile or a landfill waste tire pile operated by a state or local governmental entity and deliver the waste tires to a recycler.

(b) The executive secretary may authorize a maximum reimbursement of:

(i) 100% of a waste tire transporter's or recycler's costs allowed under Subsection (2) to remove waste tires from an abandoned waste tire pile or landfill waste tire pile and deliver the waste tires to a recycler, if no waste tires have been added to the abandoned waste tire pile or landfill waste tire pile on or after July 1, 2001; or

(ii) 60% of a waste tire transporter's or recycler's costs allowed under Subsection (2) to remove waste tires from an abandoned waste tire pile or landfill waste tire pile and deliver the waste tires to a recycler, if waste tires have been added to the abandoned waste tire pile or landfill waste tire pile on or after July 1, 2001.

(c) The executive secretary may deny an application for payment of waste tire pile removal and delivery costs, if the executive secretary determines that payment of the costs will result in there not being sufficient monies in the [trust] fund to pay expected reimbursements for recycling or beneficial use under Section 19-6-809 during the next quarter.

(2) (a) The maximum number of miles for which the executive secretary may reimburse for transportation costs incurred by a waste tire transporter under this section, is the number of miles, one way, between the location of the waste tire pile and the State Capitol Building, in Salt Lake City, Utah, or to the recycler, whichever is less.

(b) This maximum number of miles available for reimbursement applies regardless of the location of the recycler to which the waste tires are transported under this section.

(c) The executive secretary shall, upon request, advise any person preparing a bid under this section of the maximum number of miles available for reimbursement under this Subsection (2).

(d) The cost under this Subsection (2) shall be calculated based on the cost to transport one ton of waste tires one mile.

(3) (a) The county or municipality shall through a competitive bidding process make a good faith attempt to obtain a bid for the removal of the landfill or abandoned waste tire pile and transport to a recycler.

(b) The county or municipality shall submit to the executive secretary:

(i) (A) (I) a statement from the local health department stating the landfill waste tire pile is operated by a state or local governmental entity and consists solely of waste tires diverted from the landfill waste stream;

(II) a description of the size and location of the landfill waste tire pile; and

(III) landfill records showing the origin of the waste tires; or

(B) a statement from the local health department that the waste tire pile is abandoned; and

(ii) (A) the bid selected by the county or municipality; or

(B) if no bids were received, a statement to that fact.

(4) (a) If a bid is submitted, the executive secretary shall determine if the bid is reasonable, taking into consideration:

(i) the location and size of the landfill or abandoned waste tire pile;

(ii) the number and size of any other landfill or abandoned waste tire piles in the area; and

(iii) the current market for waste tires of the type in the landfill or abandoned waste tire pile.

(b) The executive secretary shall advise the county or municipality within 30 days of receipt of the bid whether or not the bid is determined to be reasonable.

(5) (a) If the bid is found to be reasonable, the county or municipality may proceed to have the landfill or abandoned waste tire pile removed pursuant to the bid.

(b) The county or municipality shall advise the executive secretary that the landfill or abandoned waste tire pile has been removed.

(6) The recycler or waste tire transporter that removed the landfill or abandoned waste tires pursuant to the bid shall submit to the executive secretary a copy of the manifest, which shall state:

(a) the number or tons of waste tires transported;

(b) the location from which they were removed;

(c) the recycler to which the waste tires were delivered; and

(d) the amount charged by the transporter or recycler.

(7) Upon receipt of the information required under Subsection (6), and determination that the information is complete, the executive secretary shall, within 30 days after receipt authorize the Division of Finance to reimburse the waste tire transporter or recycler the amount established under this section.

Section 20. Section **19-6-813** is amended to read:

**19-6-813. Application for partial reimbursement -- Penalty.**

(1) An application for partial reimbursement shall be in the format prescribed by the local health department and shall include:

- (a) the recycler's name and a brief description of the recycler's business;
- (b) the quantity, in tons, of waste tires recycled or used in a beneficial use;
- (c) originals or copies of log books, receipts, bills of lading, or other similar documents to establish the tonnage of waste tires recycled or used in a beneficial use;
- (d) a description of how the waste tires were recycled;
- (e) proof that is satisfactory to the local health department that the waste tires were recycled or used in a beneficial use; and
- (f) the affidavit of the recycler warranting that the recycled waste tires or waste tires used for a beneficial use for which reimbursement is sought meet the requirements of Subsection 19-6-809(4).

(2) In addition to any other penalty imposed under Section 19-6-821 or 19-6-822 or by any other law, any person who knowingly or intentionally provides false information to the local health department under Subsection (1):

- (a) is ineligible to receive any further reimbursement under this part; and
- (b) shall return to the Division of Finance any reimbursement previously received for deposit in the [trust] fund.

Section 21. Section **19-6-815** is amended to read:

**19-6-815. Payment by Division of Finance.**

(1) The Division of Finance is authorized to pay the recycler partial reimbursements described in Section 19-6-809 from the [trust] fund.

(2) The Division of Finance shall pay the dollar amount of partial reimbursement approved by the local health department to the recycler within the next payment period established by rule of the Division of Finance, after receipt of the local health department's report and recommendation.

Section 22. Section **19-6-816** is amended to read:

**19-6-816. Limitations on reimbursement.**

(1) The costs reimbursed under this part may not exceed the monies in the [trust] fund.

(2) If applications for reimbursement under Section 19-6-809, 19-6-811, or 19-6-812

during any month exceed the monies in the [trust] fund, the Division of Finance shall prorate the amount of all claims for reimbursement for the month and defer payment of the remainder.

(3) The amount remaining unpaid on a claim for reimbursement shall be treated as a new application for reimbursement in the next succeeding month until the unpaid amount is \$500 or less, at which time the balance of the claim shall be paid in full.

Section 23. Section **19-6-817** is amended to read:

**19-6-817. Administrative fees to local health departments -- Reporting by local health departments.**

(1) (a) The Division of Finance shall pay quarterly to the local health departments from the [trust] fund \$5 per ton of tires for which a partial reimbursement is made under this part.

(b) The payment under Subsection (1)(a) shall be allocated among the local health departments in accordance with recommendations of the Utah Association of Local Health Officers.

(c) The recommendation shall be based on the efforts expended and the costs incurred by the local health departments in enforcing this part and rules made under this part.

(2) (a) Each local health department shall track all waste tires removed from abandoned waste tire piles within its jurisdiction, to determine the amount of waste tires removed and the recycler to which they are transported.

(b) The local health department shall report this information quarterly to the executive secretary.

Section 24. Section **19-6-821** is amended to read:

**19-6-821. Violations -- Civil proceedings and penalties -- Orders.**

(1) A person who violates any provision of this part or any order, permit, plan approval, or rule issued or adopted under this part is subject to a civil penalty of not more than \$10,000 per day for each day of violation as determined in a civil hearing under Title 63, Chapter 46b, Administrative Procedures Act, except:

(a) any violation of Subsection 19-6-804(1) or (3), regarding landfills, is subject to the penalty under Subsection 19-6-804(4) rather than the penalties under this section; and

(b) any violation of Subsection 19-6-808(1), (2), or (3) regarding payment of the recycling fee by the tire retailer is subject to penalties as provided in Subsection 19-6-808(4) rather than the penalties under this section.

(2) The board may bring an action in the name of the state to restrain a person from continuing a violation of this part and to require the person to perform necessary remediation regarding a violation of this part.

(3) When the executive secretary finds a situation exists in violation of this part that presents an immediate threat to the public health or welfare, the executive secretary may issue an emergency order under Title 63, Chapter 46b, Administrative Procedures Act.

(4) The executive secretary may revoke the registration of a waste tire recycler or transporter who violates any provision of this part or any order, plan approval, permit, or rule issued or adopted under this part.

(5) The executive secretary may revoke the tire storage permit for a storage facility that is in violation of any provision of this part or any order, plan approval, permit, or rule issued or adopted under this part.

(6) If a person has been convicted of violating a provision of this part prior to a finding by the executive secretary of a violation of the same provision in an administrative hearing, the executive secretary may not assess a civil monetary penalty under this section for the same offense for which the conviction was obtained.

(7) All penalties collected under this section shall be deposited in the [trust] fund.

Section 25. Section **19-6-824** is amended to read:

**19-6-824. Transfer of assets and liabilities from Waste Tire Recycling Industrial Assistance Loan Fund to restricted special revenue fund -- Administration of outstanding loans.**

(1) The assets and liabilities of the Waste Tire Recycling Industrial Assistance Loan Fund shall be transferred to the [trust] restricted special revenue fund.

(2) The Division of Finance shall account for and track any outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan Program.

(3) (a) The Department of Community and Economic Development shall administer the collection of any outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan Program.

(b) Any loan repayments shall be deposited in the [trust] fund.

Section 26. Section **26-10-2.5** is amended to read:

**26-10-2.5. Creation of fund -- Fund money -- Use for maternal and child nutrition**

648 **program.**

649 (1) (a) There is created [~~an expendable trust~~] a restricted special revenue fund known as  
650 the "Women, Infants, and Children (WIC) Supplemental Food Program Fund."

651 (b) As used in this section, "fund" means the fund created in this Subsection (1).

652 (2) All grant money of \$450,000 received by the Division of Community and Family  
653 Health Services created in Title 26, Chapter 10, from infant formula companies, for the purpose  
654 of promoting the health of women, infants, and children by assuring they have opportunities for  
655 access to good nutrition, shall be deposited in this fund.

656 (3) Money in the fund may be used only:

657 (a) for the department's special supplemental food program for women, infants, and  
658 children; and

659 (b) upon joint agreement of the department and the State WIC Advisory Council  
660 established by the department.

661 (4) The fund shall be incorporated into the department WIC plan.

662 Section 27. Section **35A-3-206** is amended to read:

663 **35A-3-206. Restricted special revenue fund -- Use of monies -- Committee and**  
664 **director duties -- Restrictions.**

665 (1) There is created [~~an expendable trust fund~~] a restricted special revenue fund known as  
666 the "Child Care [~~Expendable Trust~~] Fund."

667 (2) The executive director shall administer the [~~trust~~] fund under the direction of the  
668 committee.

669 [~~(3) The department shall be the trustee of the fund.~~]

670 [~~(4)~~] (3) The [~~trust~~] fund shall be used to accept monies designated for child care  
671 initiatives improving the quality, affordability, or accessibility of child care.

672 [~~(5)~~] (4) The monies in the [~~trust~~] fund that are not restricted to a specific use under federal  
673 law or by donors may not be expended without approval of the committee.

674 [~~(6)~~] (5) There shall be deposited into the [~~trust~~] fund money from numerous sources  
675 including grants, private foundations, or individual donors.

676 [~~(7)~~] (6) The monies in the [~~trust~~] fund shall be invested by the state treasurer pursuant to  
677 Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings  
678 derived from the [~~trust~~] fund monies shall be deposited in the [~~trust~~] fund.

679           ~~[(8)]~~ (7) The monies in the ~~[trust]~~ fund may not be used for administrative expenses of the  
680 department normally provided for by legislative appropriation.

681           ~~[(9)]~~ (8) The committee shall:

682           (a) advise the director on child care needs in the state and on relevant operational aspects  
683 of any grant, loan, or revenue collection program established under this part;

684           (b) recommend specific projects to the director;

685           (c) recommend policy and procedures for administering the ~~[trust]~~ fund;

686           (d) make recommendations on grants, loans, or contracts from the ~~[trust]~~ fund for any of  
687 the activities authorized under this part;

688           (e) establish the criteria by which loans and grants will be made;

689           (f) determine the order in which approved projects will be funded;

690           (g) make recommendations regarding the distribution of money from the ~~[trust]~~ fund in  
691 accordance with the procedures, conditions, and restrictions placed upon the monies by the donors;  
692 and

693           (h) solicit public and private funding for the ~~[trust]~~ fund.

694           ~~[(10) Trust fund]~~ (9) Fund monies may be used for any of the following activities:

695           (a) training of child care providers;

696           (b) scholarships and grants for child care providers' professional development;

697           (c) public awareness and consumer education services;

698           (d) child care provider recruitment;

699           (e) Office of Child Care sponsored activities;

700           (f) matching money for obtaining grants; or

701           (g) other activities that will assist in the improvement of child care quality, affordability,  
702 or accessibility.

703           ~~[(11)]~~ (10) The executive director, with the consent of the committee, may grant, lend, or  
704 contract ~~[trust]~~ fund money to:

705           (a) local governments;

706           (b) nonprofit community, charitable, or neighborhood-based organizations;

707           (c) regional or statewide nonprofit organizations; or

708           (d) child care providers.

709           ~~[(12)]~~ (11) Preference may be given but not limited to applicants for ~~[trust]~~ fund monies

that demonstrate any of the following:

- (a) programatic or financial need;
- (b) diversity of clientele or geographic location; and
- (c) coordination with or enhancement of existing services.

~~[(13)]~~ (12) The executive director or the executive director's designee shall monitor the activities of the recipients of grants, loans, or contracts issued from the ~~[trust]~~ fund on an annual basis to ensure compliance with the terms and conditions imposed on the recipient by the ~~[trust]~~ fund.

~~[(14)]~~ (13) The entities receiving grants, loans, or contracts shall provide the executive director with an annual accounting of how the monies they received from the ~~[trust]~~ fund have been spent.

~~[(15)]~~ (14) The executive director shall report to the committee regarding the programs and the services funded by the ~~[trust]~~ fund.

Section 28. Section **38-11-201** is amended to read:

**38-11-201. Residence Lien Recovery Fund.**

(1) There is created ~~[an expendable trust]~~ a restricted special revenue fund called the "Residence Lien Recovery Fund."

(2) (a) The fund consists of all amounts collected by the division in accordance with Section 38-11-202.

(b) (i) The division shall deposit the funds in an account with the state treasurer.

(ii) The division shall record the funds in the Residence Lien Recovery Fund.

(c) The fund shall earn interest.

(3) The division shall employ personnel and resources necessary to administer the fund and shall use fund monies in accordance with Sections 38-11-203 and 38-11-204 and to pay the costs charged to the fund by the attorney general.

(4) Costs incurred by the division for administering the fund shall be paid out of fund monies.

(5) The Division of Finance shall report annually to the Legislature, the division, and the board. The report shall state:

- (a) amounts received by the fund;
- (b) disbursements from the fund;



(c) interest earned and credited to the fund; and

(d) the fund balance.

(6) (a) For purposes of establishing and assessing regulatory fees under Subsection 63-38-3.2(5), the provisions of this chapter are considered a new program for fiscal year 1995-96.

(b) The department shall submit its fee schedule to the Legislature for its approval at the 1996 Annual General Session.

Section 29. Section **40-6-19** is amended to read:

**40-6-19. Bond and Surety Forfeiture Trust Fund created -- Contents -- Use of fund monies.**

(1) There is created [~~an expendable~~] a private-purpose trust fund known as the "Bond and Surety Forfeiture Trust Fund."

(2) Monies collected by the Division of Oil, Gas and Mining as a result of bond or surety forfeitures shall be deposited in the fund.

(3) Interest earned on monies in the fund shall accrue to the fund.

(4) (a) Money from each forfeited bond or surety, together with interest, shall be used by the Division of Oil, Gas and Mining to accomplish the requisite performance standards under the program to which the forfeited bond or surety corresponds.

(b) Any money not used for a project shall be returned to the rightful claimant.

Section 30. Section **40-10-25.1** is amended to read:

**40-10-25.1. Abandoned Mine Reclamation Fund created -- Contents -- Use of monies.**

(1) (a) There is created [~~an expendable trust~~] a restricted special revenue fund known as the "Abandoned Mine Reclamation Fund."

(b) (i) The fund shall consist of the monies specified in Subsections (2) and (3).

(ii) The monies of Subsection (2) shall be segregated from the monies of Subsection (3).

(2) (a) Monies received by the state from the following sources shall be deposited into the Abandoned Mine Reclamation Fund:

(i) recovered liens filed against privately owned land as provided by Section 40-10-28;

(ii) fees for the use of reclaimed lands as provided by Section 40-10-28;

(iii) fines collected for violations of this chapter or any rule or order issued under this chapter;

(iv) donations designated for reclamation of abandoned mines; and

(v) interest credited to the fund pursuant to Subsection (2)(b).

(b) Monies received under Subsection (2)(a) shall be invested by the state treasurer and the income earned shall be credited to the Abandoned Mine Reclamation Fund, except interest income earned over \$19,000 per year shall be credited to the General Fund.

(c) The division may at any time expend monies deposited into the fund under Subsection (2)(a) to accomplish the purposes of the abandoned mine reclamation program.

(3) (a) (i) Monies received by the state from the secretary of the United States Department of Interior, which are granted as special state set-aside monies in accordance with 30 U.S.C. Sec. 1232 et seq. shall be deposited in the Abandoned Mine Reclamation Fund.

(ii) Monies deposited into the fund under Subsection (3)(a)(i) shall be invested by the state treasurer and the income earned shall be credited to the Abandoned Mine Reclamation Fund.

(b) After August 3, 1992, the division shall use the monies deposited into the Abandoned Mine Reclamation Fund under this Subsection (3) to accomplish the purposes set forth in Sections 40-10-25 through 40-10-28.1.

(c) Except as provided in Subsection (3)(d), the monies deposited into the Abandoned Mine Reclamation Fund under this Subsection (3) shall be made available to the division through legislative appropriations.

(d) The director of the division with the concurrence of the board may at any time expend monies deposited into the Abandoned Mine Reclamation Fund under Subsection (3)(a) for any emergency requiring immediate reclamation.

Section 31. Section **51-5-4** is amended to read:

**51-5-4. Funds established -- Titles of funds -- Fund functions.**

(1) (a) (i) The funds enumerated in this section are established as major fund types.

(ii) All resources and financial transactions of Utah state government shall be accounted for within one of these major fund types.

(b) (i) All funds or subfunds shall be consolidated into one of the state's major fund types.

(ii) Where a specific statute requires that a restricted fund be established, that fund shall be accounted for as an individual fund or subfund within the major fund type to meet generally accepted accounting principles.

(iii) Existing and new activities of state government authorized by the Legislature shall be accounted for within the framework of the major fund types established in this section.

(c) The Division of Finance shall determine the accounting classification that complies with generally accepted accounting principles for all funds or subfunds created by the Legislature.

(d) (i) Major fund types shall be added by amending this chapter.

(ii) Whenever a new act creates or establishes a fund without amending this chapter, the reference to a fund in the new act shall be classified within one of the major fund types established by this section.

(2) Major Fund Type Titles:

(a) General Fund;

(b) Special Revenue Funds;

(c) Capital Projects Funds;

(d) Debt Service Funds;

(e) Permanent Funds;

(f) Enterprise Funds;

(g) Internal Service Funds;

(h) Trust and Agency Funds;

(i) General Fixed Assets Account Group;

(j) General Long-Term Obligation Account Group; and

(k) College and University Funds.

(3) The General Fund shall receive all revenues and account for all expenditures not otherwise provided for by law in any other fund.

(4) Special Revenue Funds account for proceeds of specific revenue sources, other than permanent funds, trust and agency funds, or major capital projects, that are legally restricted to expenditures for a specific purpose.

(a) The Uniform School Fund is a Special Revenue Fund that accounts for all revenues that are required by law to be expended for the public school programs of the state.

(b) The Transportation Fund is a Special Revenue Fund that accounts for all revenues that are required by law to be expended for highway purposes.

(c) (i) A Restricted Special Revenue Fund is a Special Revenue Fund created by legislation or contractual relationship with parties external to the state that:

(A) identifies specific revenues collected from fees, taxes, dedicated credits, donations, federal funds, or other sources;

834 (B) defines the use of the money in the fund for a specific function of government or  
835 program within an agency; and

836 (C) delegates spending authority or authorization to use the fund's assets to a governing  
837 board, administrative department, or other officials as defined in the enabling legislation or  
838 contract establishing the fund.

839 (ii) A Restricted Special Revenue Fund may only be created by contractual relationship  
840 with external parties when the sources of revenue for the fund are donated revenues or federal  
841 revenues.

842 (iii) Restricted Special Revenue Funds are subject to annual legislative review by the  
843 appropriate legislative appropriations subcommittee.

844 (5) Capital Projects Funds account for financial resources to be expended for the  
845 acquisition or construction of major capital facilities, except that when financing for the  
846 acquisition or construction of a major capital facility is obtained from a trust fund or a proprietary  
847 type fund within one of the major fund types, the monies shall be accounted for in those accounts.

848 (6) Debt Service Funds account for the accumulation of resources for, and the payment of,  
849 the principal and interest on general long-term obligations.

850 (7) Permanent Funds account for assets that are legally restricted to the extent that only  
851 earnings, and not principal, may be used for a specific purpose.

852 (8) Enterprise Funds are designated to account for the following:

853 (a) operations, financed and operated in a manner similar to private business enterprises,  
854 where the Legislature intends that the costs of providing goods or services to the public are  
855 financed or recovered primarily through user charges;

856 (b) operations where the Legislature requires periodic determination of revenues earned,  
857 expenses incurred, and net income;

858 (c) operations for which a fee is charged to external users for goods or services; or

859 (d) operations that are financed with debt that is secured solely by a pledge of the net  
860 revenues from fees and charges of the operations.

861 (9) Internal Service Funds account for the financing of goods or services provided by one  
862 department, division, or agency to other departments, divisions, or agencies of the state, or to other  
863 governmental units, on a cost-reimbursement basis.

864 (10) (a) Trust and Agency Funds account for assets held by the state as trustee or agent for

individuals, private organizations, or other governmental units.

(b) Pension Trust Funds, Investment Trust Funds, Private-Purpose Trust Funds, and Agency Funds are Trust and Agency Funds.

(11) The General Fixed Assets Account Group accounts for all fixed assets acquired or constructed for use by the state, except for the fixed assets accounted for in the Internal Service, Enterprise, Trust and Agency, and College and University Funds.

(12) The General Long-Term Obligation Account Group accounts for general obligation bonds, revenue bonds, capital lease obligations, accrued annual and compensatory leave, and other long-term obligations not otherwise recorded in Internal Service, Enterprise, Trust and Agency, and College and University Funds.

(13) College and University Funds account for the financial resources used to operate the state's colleges and universities.

Section 32. Section **51-5-7** is amended to read:

**51-5-7. Expending plans and administrative expenses provided by legislative appropriation and included in governor's budget.**

(1) (a) ~~[The]~~ Except as provided in Subsection (1)(b), the revenues and other resources of the governmental funds are subject to legislative review and appropriation for each fiscal period.

(b) Restricted Special Revenue Funds are subject to legislative review for each fiscal period.

(2) Notwithstanding the source of the revenues and the restrictions imposed upon the expenditure of the revenues, the planned expenditures for the governmental funds, except Restricted Special Revenue Funds, shall be incorporated into the governor's budget and submitted to the Legislature according to Section 63-38-2.

(3) Expenses required in the administrative activities of the Restricted Special Revenue Funds, the Enterprise Funds, the Internal Service Funds, and the Trust and Agency Funds are subject to legislative review each year.

(a) Pro forma financial statements, including balance sheets, revenue and expenditure statements, statements of changes in financial position, and other statements that may be required for these funds shall be included in the governor's budget as information items and submitted to the Legislature according to Section 63-38-2.

(b) If the operating results of any of these funds demonstrate that an appropriation is

896 needed from any other fund or subfund, that appropriation shall be included in the governor's  
897 budget as a budget request.

898 Section 33. Section **53-6-213** is amended to read:

899 **53-6-213. Appropriations from reparation fund.**

900 (1) The Legislature shall appropriate from the [~~trust~~] fund [~~under~~] established in Title 63,  
901 Chapter 25a, Part 4, the Crime Victims' Reparations Act, to the division, funds for training of law  
902 enforcement officers in the state.

903 (2) The department shall make an annual report to the Legislature, which includes the  
904 amount received during the previous fiscal year.

905 Section 34. Section **53C-5-104** is amended to read:

906 **53C-5-104. Fees.**

907 (1) The director shall collect a fee annually from each grazing permittee for the control of  
908 noxious weeds and new and invading plant species on trust lands.

909 (2) The fee shall be 5 cents per animal unit month (AUM).

910 (3) Fees collected by the director under this section shall be deposited in the [~~expendable~~  
911 ~~trust~~] Land Grant Management Fund created in Section 53C-3-101 and shall be used by the  
912 director for the payment of costs incurred in controlling noxious weeds and new and invading plant  
913 species on school and institutional trust lands.

914 Section 35. Section **54-8b-15** is amended to read:

915 **54-8b-15. Universal Public Telecommunications Service Support Fund --**

916 **Established.**

917 (1) For purposes of this section:

918 (a) "Basic telephone service" means local exchange service and may include such other  
919 functions and elements, if any, as the commission determines to be eligible for support by the fund.

920 (b) "Fund" means the Universal Public Telecommunications Service Support Fund  
921 established in this section.

922 (2) The commission shall establish [~~an expendable trust~~] a restricted special revenue fund  
923 known as the "Universal Public Telecommunications Service Support Fund," which is to be  
924 implemented by January 1, 1998.

925 (3) The commission shall:

926 (a) institute a proceeding within 30 days of the effective date of this section to establish

rules governing the administration of the fund; and

(b) issue those rules by October 1, 1997.

(4) The rules in Subsection (3) shall~~[(a) include rules governing the mechanics of phasing out the trust fund established under Section 54-8b-12; (b) specify the relationship between the payments made to the trust fund in Section 54-8b-12 and the payments made to the fund established in this section; and (c)]~~ be consistent with the Federal Telecommunications Act.

(5) Operation of the fund shall be nondiscriminatory and competitively and technologically neutral in the collection and distribution of funds, neither providing a competitive advantage for, nor imposing a competitive disadvantage upon, any telecommunications provider operating in the state.

(6) The fund shall be designed to:

(a) promote equitable cost recovery of basic telephone service through the imposition of just and reasonable rates for telecommunications access and usage; and

(b) preserve and promote universal service within the state by ensuring that customers have access to affordable basic telephone service.

(7) To the extent not funded by a federal universal service fund or other federal jurisdictional revenues ~~[or by the fund established pursuant to Section 54-8b-12]~~, the fund shall be used to defray the costs, as determined by the commission, of any qualifying telecommunications corporation in providing public telecommunications services to:

(a) customers that qualify for a commission-approved lifeline program; and

(b) customers, where the basic telephone service rate considered affordable by the commission in a particular geographic area is less than the costs, as determined by the commission for that geographic area, of basic telephone service.

(8) The fund shall be portable among qualifying telecommunications corporations. Requirements to qualify for funds under this section shall be defined by rules established by the commission.

(9) As necessary to accomplish the purposes of this section, the fund shall provide a mechanism for specific, predictable, and sufficient funds in addition to those provided under the federal universal service fund.

(10) (a) Each telecommunications corporation that provides intrastate public telecommunication service shall contribute to the fund on an equitable and nondiscriminatory

basis.

(b) For purposes of funding the fund, the commission shall have the authority to require all corporations that provide intrastate telecommunication services in this state to contribute monies to the fund through explicit charges determined by the commission.

(c) Any charge in Subsection (10)(b) shall not apply to wholesale services, including access and interconnection. Charges associated with being a provider of public telecommunications service shall be in the form of end-user surcharges applied to intrastate retail rates.

~~[(d) In establishing any surcharge under this section, the commission is not limited by the restrictions in Subsection 54-8b-12(2).]~~

(11) Nothing in this section shall be construed to enlarge or reduce the commission's jurisdiction or authority, as provided in other provisions of this title.

(12) Any telecommunications corporation failing to make contributions to this fund or failing to comply with the directives of the commission concerning its books, records, or other information required to administer this section shall be subject to applicable penalties.

(13) The commission shall have a bill prepared for the 1998 General Session of the Legislature to place in statute as much of the regulation implemented by rule pursuant to the act the commission believes is practicable.

Section 36. Section **58-3a-103** is amended to read:

**58-3a-103. Education and enforcement fund.**

(1) There is created a restricted special revenue fund known as the "Architects Education and Enforcement Fund."

(2) The fund consists of monies from:

(a) a surcharge fee placed on initial, renewal, and reinstatement licensure fees under this chapter in accordance with the following:

(i) the surcharge fee shall be determined by the department in accordance with Section 63-38-3.2; and

(ii) the surcharge fee shall not exceed 50% of the respective initial, renewal, or reinstatement licensure fee; and

(b) administrative penalties collected pursuant to this chapter.

(3) The fund shall earn interest and all interest earned on fund monies shall be deposited



989 into the fund.

990 (4) The director may, with concurrence of the board, make distributions from the fund for  
991 the following purposes:

992 (a) education and training of licensees under this chapter;

993 (b) education and training of the public or other interested persons in matters concerning  
994 architectural laws and practices; and

995 (c) enforcement of this chapter by:

996 (i) investigating unprofessional or unlawful conduct; and

997 (ii) providing legal representation to the division when the division takes legal action  
998 against a person engaging in unprofessional or unlawful conduct.

999 (5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the excess  
1000 shall be transferred to the General Fund.

1001 (6) The division shall report annually to the appropriate appropriations subcommittee of  
1002 the Legislature concerning the fund.

1003 Section 37. Section **58-11a-103** is amended to read:

1004 **58-11a-103. Education and enforcement fund.**

1005 (1) There is created a restricted special revenue fund known as the "Cosmetologist/Barber,  
1006 Esthetician, Electrologist, and Nail Technician Education and Enforcement Fund."

1007 (2) The fund consists of monies from administrative penalties collected pursuant to this  
1008 chapter.

1009 (3) The fund shall earn interest and all interest earned on fund monies shall be deposited  
1010 into the fund.

1011 (4) The director may, with concurrence of the board, make distributions from the fund for  
1012 the following purposes:

1013 (a) education and training of licensees under this chapter;

1014 (b) education and training of the public or other interested persons in matters concerning  
1015 the laws governing the practices licensed under this chapter; and

1016 (c) enforcement of this chapter by:

1017 (i) investigating unprofessional or unlawful conduct; and

1018 (ii) providing legal representation to the division when the division takes legal action  
1019 against a person engaging in unprofessional or unlawful conduct.

(5) The division shall report annually to the appropriate appropriations subcommittee of the Legislature concerning the fund.

Section 38. Section **58-22-103** is amended to read:

**58-22-103. Education and enforcement fund.**

(1) There is created a restricted special revenue fund known as the "Professional Engineer, Professional Structural Engineer, and Professional Land Surveyor Education and Enforcement Fund."

(2) The fund consists of monies from:

(a) a surcharge fee placed on initial, renewal, and reinstatement licensure fees under this chapter in accordance with the following:

(i) the surcharge fee shall be established by the department in accordance with Section 63-38-3.2; and

(ii) the surcharge fee shall not exceed 50% of the respective initial, renewal, or reinstatement licensure fee; and

(b) administrative penalties collected pursuant to this chapter.

(3) The fund shall earn interest and all interest earned on fund monies shall be deposited into the fund.

(4) The director may, with concurrence of the board, make distributions from the fund for the following purposes:

(a) education and training of licensees under this chapter;

(b) education and training of the public or other interested persons in matters concerning engineering, structural engineering, and land surveying laws and practices; and

(c) enforcement of this chapter by:

(i) investigating unprofessional or unlawful conduct; and

(ii) providing legal representation to the division when the division takes legal action against a person engaging in unprofessional or unlawful conduct.

(5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the excess shall be transferred to the General Fund.

(6) The division shall report annually to the appropriate appropriations subcommittee of the Legislature concerning the fund.

Section 39. Section **58-53-103** is amended to read:

**58-53-103. Education and enforcement fund.**

(1) There is created a restricted [~~account in the General Fund~~] special revenue fund known as the "Landscape Architects Education and Enforcement Fund."

(2) The fund consists of monies from:

(a) a surcharge placed on application fees for initial, renewal, and reinstatement licensure under this chapter, in an amount established by the division with the collaboration of the board in accordance with Section 63-38-3.2, not to exceed 50% of the respective fee; and

(b) administrative penalties collected pursuant to this chapter.

(3) The fund shall earn interest, and all interest earned on fund monies shall be deposited into the fund.

(4) The director may, with concurrence of the board, make distributions from the fund for the following purposes:

(a) education and training of licensees under this chapter;

(b) education and training of the public or other interested persons in matters concerning landscape architectural laws and practices; and

(c) enforcement of this chapter by:

(i) investigating unprofessional or unlawful conduct; and

(ii) providing legal representation to the division when the division takes legal action against a person engaging in unprofessional or unlawful conduct.

(5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the excess shall be transferred to the General Fund.

(6) The division shall report annually to the appropriate appropriations subcommittee of the Legislature concerning the fund.

Section 40. Section **58-67a-1** is amended to read:

**58-67a-1. Physicians Education Fund.**

(1) There is created a restricted special revenue fund known as the "Physicians Education Fund" to receive and account for revenue and expenditures for making education available to physicians and surgeons, osteopathic physicians and surgeons, and naturopathic physicians, concerning the requirements of Title 58, Occupations and Professions, division rules, and requirements under Title 58, Chapter 37, Utah Controlled Substances Act, and division rules made under that chapter.

(2) Administrative penalties ordered and collected pursuant to this section shall be deposited in the account.

(3) The fund shall earn interest and all interest earned on account monies shall be deposited into the account.

(4) The director, with the concurrence of the board, may make distributions from the fund to make available education and training for physicians and surgeons, osteopathic physicians and surgeons, and naturopathic physicians.

(5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the excess shall be transferred to the General Fund.

(6) The division shall report on the fund annually to the appropriate appropriations subcommittee of the Legislature.

Section 41. Section **59-10-548** is amended to read:

**59-10-548. Election Campaign Fund -- Contents -- Disbursement and distribution -- Limitations on expenditures -- Violations.**

(1) There is established [~~in the State Trust and Agency Fund provided for under Section 51-5-4 a trust~~] an agency fund to be known as the "Election Campaign Fund." This fund shall consist of all amounts deposited to it as provided in Section 59-10-547.

(2) The state treasurer shall on or before four months after the due date of the returns required by this chapter as to which designations of payment to the fund have been made make disbursements from the fund as follows:

(a) One-half of that portion of the amounts deposited in the fund since the last disbursement designated for any given political party shall be disbursed to the state central committee of that party.

(b) The balance of this portion shall be distributed to the respective county central committees of that party in the direct relationship that the number of taxpayers who designated that amounts be paid into the fund for that party residing in any county bears to the total number of such taxpayers who made designations for that party in the state.

(3) Each state central committee and county central committee which receives disbursements from the fund shall establish a separate account for these disbursements. Payments from any of these accounts shall only be made upon explicit authorization, as to each payment, from a duly convened meeting of the applicable central committee, which duty of authorization

is not delegable. Any person violating this subsection is guilty of a misdemeanor, and any person has standing to enjoin any violation of it.

Section 42. Section **61-1-18.7** is amended to read:

**61-1-18.7. Funding of securities investor education and training.**

(1) There is created a restricted special revenue fund known as the "Securities Investor Education and Training Fund" to provide revenue for educating the public and the securities industry as provided in this section.

(2) All money received by the state by reason of civil penalties ordered and administrative fines collected pursuant to this chapter shall be deposited in the Securities Investor Education and Training Fund, and subject to the requirements of Title 51, Chapter 5, Funds Consolidation Act.

(3) The special revenue fund may include any fines collected by the division after July 1, 1989, pursuant to voluntary settlements or administrative orders.

(4) (a) The fund shall earn interest.

(b) All interest earned on fund monies shall be deposited into the fund.

(5) Notwithstanding Title 63, Chapter 38, Budgetary Procedures Act, the director may use special revenue fund monies, upon concurrence of the Securities Advisory Board and the executive director of the Department of Commerce, in a manner consistent with the duties of the division under this chapter and only for any or all of the following and the expense of providing them:

(a) education and training of Utah residents in matters concerning securities laws and investment decisions, by publications or presentations;

(b) education of registrants and licensees under this chapter, by:

(i) publication of this chapter and rules and policy statements and opinion letters of the division; and

(ii) sponsorship of seminars or meetings to educate registrants and licensees as to the requirements of this chapter; and

(c) investigation and litigation.

(6) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the excess shall be transferred to the General Fund.

Section 43. Section **61-2a-3** is amended to read:

**61-2a-3. Education, Research, and Recovery Fund.**

There is created a [~~segregated special trust~~] restricted special revenue fund to be known as

the "Real Estate Education, Research, and Recovery Fund." The actual interest earned on the Real Estate Education, Research, and Recovery Fund shall be deposited into the fund. At the commencement of each fiscal year, \$100,000 shall be available in the fund for satisfying judgments rendered against persons licensed under Title 61, Chapter 2, Division of Real Estate.

Section 44. Section **62A-8-103** is amended to read:

**62A-8-103. Division -- Creation -- Responsibilities.**

(1) There is created the Division of Substance Abuse within the department, under the administration and general supervision of the executive director, and, with regard to its programs, under the policy direction of the board. The division is the substance abuse authority for this state.

(2) The division shall:

(a) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(b) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(c) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(d) promote or establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(e) provide consultation and other assistance to public and private agencies and groups;

(f) cooperate and assist other organizations and private treatment centers for substance abusers, by providing them with essential materials for furthering programs of prevention and rehabilitation of actual and potential substance abusers;

(g) promote or conduct research on substance abuse issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(h) receive, distribute, and provide direction over public funds for substance abuse services;

(i) consult and coordinate with local substance abuse authorities regarding substance abuse programs and services;

(j) promote or establish programs for education and certification of instructors to educate persons convicted of driving under the influence of alcohol or drugs or driving with any

1175 measurable controlled substance in the body;

1176 (k) monitor and evaluate programs provided by local substance abuse authorities;

1177 (l) examine expenditures of any local, state, and federal funds;

1178 (m) monitor the expenditure of public funds by:

1179 (i) local substance abuse authorities; and

1180 (ii) in counties where they exist, the private contract provider that has an annual or

1181 otherwise ongoing contract to provide comprehensive substance abuse programs or services for

1182 the local substance abuse authority;

1183 (n) contract with local substance abuse authorities to provide a comprehensive continuum

1184 of services in accordance with board and division policy, contract provisions, and the local plan;

1185 (o) contract with private and public entities for special statewide or nonclinical services

1186 according to board and division policy;

1187 (p) review and approve each local substance abuse authority's plan in order to assure:

1188 (i) a statewide comprehensive continuum of substance abuse services; and

1189 (ii) appropriate expenditure of public funds;

1190 (q) review and make recommendations regarding each local substance abuse authority's

1191 contract with its provider of substance abuse programs and services to assure compliance with state

1192 and federal law and policy;

1193 (r) monitor and assure compliance with board and division policy and contract

1194 requirements; and

1195 (s) withhold funds from local substance abuse authorities and public and private providers

1196 for contract noncompliance, failure to comply with division directives regarding the use of public

1197 funds, or for misuse of public funds or monies.

1198 (3) (a) The division may refuse to contract with and may pursue its legal remedies against

1199 any local substance abuse authority that fails, or has failed, to expend public funds in accordance

1200 with state law, policy, contract provisions, or directives issued in accordance with state law.

1201 (b) The division may withhold funds from a local substance abuse authority if the

1202 authority's contract with its provider of substance abuse services fails to comply with state and

1203 federal law or policy.

1204 (4) Before reissuing or renewing a contract with any local substance abuse authority, the

1205 division shall review and determine whether the local substance abuse authority is complying with

its oversight and management responsibilities described in Sections 17A-3-701 and 17A-3-703. Nothing in this Subsection (4) may be used as a defense to the responsibility and liability described in Section 17A-3-703.

(5) In carrying out its duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(6) (a) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(b) Those donations, gifts, devises, or bequests shall be used by the division in performing its powers and duties. Any money so obtained shall be considered private nonlapsing funds and shall be deposited into an interest-bearing [~~expendable trust~~] restricted special revenue fund to be used by the division for substance abuse services. The state treasurer may invest the fund and all interest shall remain with the fund.

(7) The division shall annually review with each local substance abuse authority the authority's statutory and contract responsibilities regarding:

(a) the use of public funds;

(b) oversight responsibilities regarding public funds; and

(c) governance of substance abuse programs and services.

Section 45. Section **62A-12-102** is amended to read:

**62A-12-102. Division of Mental Health -- Creation -- Responsibilities.**

(1) There is created the Division of Mental Health within the department, under the administration and general supervision of the executive director, and, with regard to its programs, under the policy direction of the board. The division is the mental health authority for this state.

(2) The division shall:

(a) collect and disseminate information pertaining to mental health;

(b) develop, administer, and supervise a comprehensive state mental health program;

(c) provide direction over the state hospital including approval of its budget, administrative policy, and coordination of services with local service plans;

(d) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research



1237 organizations, and other related groups;

1238 (e) receive, distribute, and provide direction over public funds for mental health services;

1239 (f) consult and coordinate with local mental health authorities regarding mental health

1240 programs and services;

1241 (g) monitor and evaluate programs provided by local mental health authorities with public

1242 funds;

1243 (h) examine expenditures of any local, state, and federal funds;

1244 (i) monitor the expenditure of public funds by local mental health authorities and their

1245 contract providers;

1246 (j) contract with local mental health authorities to provide or arrange for a comprehensive

1247 continuum of services in accordance with board and division policy, contract provisions, and the

1248 local plan;

1249 (k) contract with private and public entities for special statewide or nonclinical services

1250 in accordance with board and division policy;

1251 (l) review and approve each local mental health authority's plan, to assure:

1252 (i) a statewide comprehensive continuum of mental health services; and

1253 (ii) appropriate expenditure of public funds;

1254 (m) review and make recommendations regarding each local mental health authority's

1255 contract with its provider of mental health programs and services to assure compliance with state

1256 and federal law and policy;

1257 (n) promote or conduct research on mental health issues and submit any recommendations

1258 for changes in policy and legislation to the Legislature and the governor;

1259 (o) withhold funds from local mental health authorities and public and private providers

1260 for contract noncompliance, failure to comply with division directives regarding the use of public

1261 funds, or for misuse of public funds or monies;

1262 (p) cooperate with other state, county, nonprofit, and other private entities to prevent

1263 duplication of services;

1264 (q) monitor and assure compliance with board and division policy and contract

1265 requirements; and

1266 (r) perform such other acts as are necessary to promote mental health in the state.

1267 (3) (a) The division may refuse to contract with and may pursue its legal remedies against

any local mental health authority that fails, or has failed, to expend public funds in accordance with state law, policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local mental health authority if the authority's contract with its provider of mental health programs and services fails to comply with state and federal law or policy.

(4) Before reissuing or renewing a contract with any local mental health authority, the division shall review and determine whether the local mental health authority is complying with its oversight and management responsibilities described in Sections 17A-3-602 and 17A-3-603.5. Nothing in this Subsection (4) may be used as a defense to the responsibility and liability described in Section 17A-3-603.5.

(5) (a) The division may accept, in the name of and on behalf of the state, donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(b) Those donations, gifts, devises, or bequests shall be used by the division in the performance of its powers and duties. Any money so obtained shall be [~~considered private nonlapsing funds and shall be~~] deposited into an interest-bearing [~~expendable trust~~] restricted special revenue fund to be used by the division for mental health services. The state treasurer may invest the fund and all interest shall remain with the fund.

(6) The division shall annually review with each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) the use of public funds;

(b) oversight responsibilities regarding public funds; and

(c) governance of mental health programs and services.

Section 46. Section **62A-12-204** is amended to read:

**62A-12-204. Receipt of gift -- Transfer of persons from other institutions.**

(1) The division may take and hold by gift, devise, or bequest real and personal property required for the use of the state hospital. With the approval of the governor it may convert that property which is not suitable for its use into money or property that is suitable for that use.

(2) The state hospital is authorized to receive from any other institution within the department any person committed to that institution, when a careful evaluation of the treatment needs of the person and of the treatment programs available at the state hospital indicates that the transfer would be in the interest of that person.

(3) (a) Notwithstanding the provisions of Subsection 62A-1-111 (10), the state hospital is authorized to receive gifts, grants, devises, and donations and shall deposit them into an interest-bearing [~~expendable trust~~] restricted special revenue fund. The state treasurer may invest the fund and all interest is to remain with the fund.

(b) Those gifts, grants, devises, donations, and the proceeds thereof shall be used by the superintendent or his designee for the use and benefit of patients at the state hospital.

Section 47. Section **63-25a-402** is amended to read:

**63-25a-402. Definitions.**

As used in this chapter:

(1) "Accomplice" means a person who has engaged in criminal conduct as defined in Section 76-2-202.

(2) "Board" means the Crime Victims' Reparations Board created under Section 63-25a-404.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(4) "Claim" means:

(a) the victim's application or request for a reparations award; and

(b) the formal action taken by a victim to apply for reparations pursuant to Sections 63-25a-401 through 63-25a-428.

(5) "Claimant" means any of the following claiming reparations under this chapter:

(a) a victim;

(b) a dependent of a deceased victim;

(c) a representative other than a collateral source; or

(d) the person or representative who files a claim on behalf of a victim.

(6) "Child" means an unemancipated person who is under 18 years of age.

(7) "Collateral source" means the definition as provided in Section 63-25a-413.

(8) "Contested case" means a case which the claimant contests, claiming the award was either inadequate or denied, or which a county attorney, a district attorney, a law enforcement officer, or other individual related to the criminal investigation proffers reasonable evidence of the claimant's lack of cooperation in the prosecution of a case after an award has already been given.

(9) (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

- 1330 (i) is or would be subject to prosecution in this state under Section 76-1-201;
- 1331 (ii) occurs or is attempted;
- 1332 (iii) causes, or poses a substantial threat of causing, bodily injury or death;
- 1333 (iv) is punishable by fine, imprisonment, or death if the person engaging in the conduct
- 1334 possessed the capacity to commit the conduct; and
- 1335 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft,
- 1336 or water craft, unless the conduct is intended to cause bodily injury or death, or is conduct which
- 1337 is or would be punishable under Title 76, Chapter 5, Offenses Against the Person, or as any offense
- 1338 chargeable as driving under the influence of alcohol or drugs.
- 1339 (b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C.
- 1340 2331 committed outside of the United States against a resident of this state. "Terrorism" does not
- 1341 include an "act of war" as defined in 18 U.S.C. 2331.
- 1342 (10) "Dependent" means a natural person to whom the victim is wholly or partially legally
- 1343 responsible for care or support and includes a child of the victim born after his death.
- 1344 (11) "Dependent's economic loss" means loss after the victim's death of contributions of
- 1345 things of economic value to his dependent, not including services the dependent would have
- 1346 received from the victim if he had not suffered the fatal injury, less expenses of the dependent
- 1347 avoided by reason of victim's death.
- 1348 (12) "Dependent's replacement services loss" means loss reasonably and necessarily
- 1349 incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent
- 1350 would have performed for his benefit if he had not suffered the fatal injury, less expenses of the
- 1351 dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's
- 1352 economic loss.
- 1353 (13) "Director" means the director of the Reparations Office.
- 1354 (14) "Disposition" means the sentencing or determination of penalty or punishment to be
- 1355 imposed upon a person:
- 1356 (a) convicted of a crime;
- 1357 (b) found delinquent; or
- 1358 (c) against whom a finding of sufficient facts for conviction or finding of delinquency is
- 1359 made.
- 1360 (15) "Economic loss" means economic detriment consisting only of allowable expense,

work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss. Noneconomic detriment is not loss, but economic detriment is loss although caused by pain and suffering or physical impairment.

(16) "Elderly victim" means a person 60 years of age or older who is a victim.

(17) "Fraudulent claim" means a filed claim based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible as provided in Section 63-25a-410.

(18) "Fund" means the Crime Victim Reparation Fund created in Section 63-63a-4.

~~[(18)]~~ (19) "Law enforcement officer" means a law enforcement officer as defined in Section 53-13-103.

~~[(19)]~~ (20) "Medical examination" means a physical examination necessary to document criminally injurious conduct but does not include mental health evaluations for the prosecution and investigation of a crime.

~~[(20)]~~ (21) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct. The definition of mental health counseling is subject to rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

~~[(21)]~~ (22) "Misconduct" as provided in Subsection 63-25a-412(1)(b) means conduct by the victim which was attributable to the injury or death of the victim as provided by rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

~~[(22)]~~ (23) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this chapter.

~~[(23)]~~ (24) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this chapter.

~~[(24)]~~ (25) "Offender" means a person who has violated the criminal code through criminally injurious conduct regardless of whether he is arrested, prosecuted, or convicted.

~~[(25)]~~ (26) "Offense" means a violation of the criminal code.

~~[(26)]~~ (27) "Perpetrator" means the person who actually participated in the criminally injurious conduct.

~~[(27)]~~ (28) "Personal property" has the same definition as provided in Section 68-3-12.

~~[(28)]~~ (29) "Reparations Office" means the office of the reparations staff for the purpose

of carrying out this chapter.

~~[(29)]~~ (30) "Reparations officer" means a person employed by the Reparations Office to investigate claims of victims and award reparations under this chapter, and includes the director when he is acting as a reparations officer.

~~[(30)]~~ (31) "Reparations staff" means the director, the reparations officers, and any other staff employed to administer the Crime Victims' Reparations Act.

~~[(31)]~~ (32) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but the benefit of himself or his dependents if he had not been injured.

~~[(32)]~~ (33) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of a person but does not include service providers.

~~[(33)]~~ (34) "Restitution" means money or services an appropriate authority orders an offender to pay or render to a victim of the offender's conduct.

~~[(34)]~~ (35) "Secondary victim" means a person who is traumatically affected by the criminally injurious conduct subject to rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

~~[(35)]~~ (36) "Service provider" means a person or agency who provides a service to crime victims for a monetary fee except attorneys as provided in Section 63-25a-424.

~~[(36)] "Trust fund" means the Crime Victim Reparation Trust Fund under Title 63, Chapter 63a.]~~

(37) (a) "Victim" means a person who suffers bodily or psychological injury or death as a direct result of criminally injurious conduct or of the production of pornography in violation of Sections 76-5a-1 through 76-5a-4 if the person is a minor.

(b) "Victim" does not include a person who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule.

(c) "Victim" includes a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. 2331, committed outside of the United States.

(38) "Work loss" means loss of income from work the injured victim would have performed if he had not been injured and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from

substitute work he was capable of performing but unreasonably failed to undertake.

Section 48. Section **63-25a-405** is amended to read:

**63-25a-405. Board and office within Commission on Criminal and Juvenile Justice.**

(1) The Crime Victims' Reparations Board and Reparations Office are placed within the Commission on Criminal and Juvenile Justice for the provision by the commission of administrative and support services to the Reparations Office.

(2) The board or the director may request assistance from the Commission on Criminal and Juvenile Justice, the Department of Public Safety, and other state agencies in conducting research or monitoring victims' programs.

(3) The [~~trust~~] fund shall appear as a separate line item in the Commission on Criminal and Juvenile Justice budget.

Section 49. Section **63-25a-406** is amended to read:

**63-25a-406. Functions of board.**

(1) The board shall:

(a) adopt a description of the organization and prescribe the general operation of the board;

(b) prescribe policy for the Reparations Office;

(c) adopt rules to implement and administer Sections 63-25a-401 through 63-25a-428 pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which may include setting of ceilings on reparations, defining of terms not specifically stated in this chapter, and establishing of rules governing attorney fees;

(d) prescribe forms for applications for reparations;

(e) review all awards made by the reparations staff, although the board may not reverse or modify awards authorized by the reparations staff;

(f) render an annual report to the governor and the Legislature regarding the staff's and the board's activities;

(g) cooperate with the director and his staff in formulating standards for the uniform application of Section 63-25a-409, taking into consideration the rates and amounts of reparation payable for injuries and death under other laws of this state and the United States;

(h) advocate the adoption, repeal, or modification of laws or proposed legislation in the interest of victims of crime;

(i) allocate monies available in the Crime [~~Victims'~~] Victim Reparation [~~Trust~~] Fund to

victims of criminally injurious conduct for reparations claims; and

(j) allocate monies available to other victim services as provided by administrative rule once a sufficient reserve has been established for reparation claims.

(2) All rules, or other statements of policy, along with application forms specified by the board, are binding upon the director, the reparations officers, and other staff.

Section 50. Section **63-25a-407** is amended to read:

**63-25a-407. Director -- Appointment and functions.**

The executive director of the Commission on Criminal and Juvenile Justice, after consulting with the board, shall appoint a director to carry out the provisions of this chapter. The director shall be an experienced administrator with a background in at least one of the following fields: social work, psychology, criminal justice, law, or a related field. The director shall demonstrate an understanding of the needs of crime victims and of services to victims. The director shall devote his time and capacity to his duties. The director shall:

- (1) hire staff, including reparations officers, as necessary;
- (2) act when necessary as a reparations officer in deciding initial claims;
- (3) possess the same investigation and decision-making authority as the reparations officers;
- (4) hear appeals from the decisions of the reparations officers, unless he acted as a reparations officer on the initial claim;
- (5) serve as a liaison between the reparations staff and the Reparations Office;
- (6) serve as the public relations representative of the Reparations Office;
- (7) provide for payment of all administrative salaries, fees, and expenses incurred by the staff of the board, to be paid out of appropriations from the ~~[Victims' Reparations Trust Fund]~~ fund;
- (8) cooperate with the state treasurer and the state Division of Finance in causing the funds in the trust fund to be invested and its investments sold or exchanged and the proceeds and income collected;
- (9) apply for, receive, allocate, disburse, and account for grants of funds made available by the United States, the state, foundations, corporations, and other businesses, agencies, or individuals;
- (10) obtain and utilize the services of other governmental agencies upon request; and



1485 (11) act in any other capacity or perform any other acts necessary for the Reparations  
1486 Office or board to successfully fulfill its statutory objectives.

1487 Section 51. Section **63-25a-411** is amended to read:

1488 **63-25a-411. Compensable losses and amounts.**

1489 A reparations award under this chapter may be made if:

1490 (1) the reparations officer finds the claim satisfies the requirements for the award under  
1491 the provisions of this chapter and the rules of the board;

1492 (2) [~~funds~~] monies are available in the [~~trust~~] fund;

1493 (3) the person for whom the award of reparations is to be paid is otherwise eligible under  
1494 this act;

1495 (4) the claim is for an allowable expense incurred by the victim, as follows:

1496 (a) reasonable and necessary charges incurred for products, services, and accommodations;

1497 (b) inpatient and outpatient medical treatment and physical therapy, subject to rules  
1498 promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act;

1499 (c) mental health counseling which:

1500 (i) is set forth in a mental health treatment plan which has been approved prior to any  
1501 payment by a reparations officer; and

1502 (ii) qualifies within any further rules promulgated by the board pursuant to Title 63,  
1503 Chapter 46a, Utah Administrative Rulemaking Act;

1504 (d) actual loss of past earnings and anticipated loss of future earnings because of a death  
1505 or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the person's  
1506 weekly gross salary or wages or the maximum amount allowed under the state workers'  
1507 compensation statute;

1508 (e) care of minor children enabling a victim or spouse of a victim, but not both of them,  
1509 to continue gainful employment at a rate per child per week as determined under rules established  
1510 by the board;

1511 (f) funeral and burial expenses for death caused by the criminally injurious conduct,  
1512 subject to rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative  
1513 Rulemaking Act;

1514 (g) loss of support to the dependent or dependents not otherwise compensated for a  
1515 pecuniary loss for personal injury, for as long as the dependence would have existed had the victim

survived, at a rate not to exceed 66-2/3% of the person's weekly salary or wages or the maximum amount allowed under the state workers' compensation statute, whichever is less;

(h) personal property necessary and essential to the health or safety of the victim as defined by rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act; and

(i) medical examinations as defined in ~~[Subsection]~~ Section 63-25a-402~~[(19)]~~, subject to rules promulgated by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which may allow for exemptions from Sections 63-25a-409, 63-25a-412, and 63-25a-413.

(5) If a Utah resident suffers injury or death as a result of criminally injurious conduct inflicted in a state, territory, or country that does not provide a reciprocal crime victims' compensation program, the Utah resident has the same rights under this chapter as if the injurious conduct occurred in this state.

(6) An award of reparations shall not exceed \$25,000 in the aggregate unless the victim is entitled to proceeds in excess of that amount as provided in Subsection 76-3-201.2(2).

However, reparations for actual medical expenses incurred as a result of homicide, attempted homicide, aggravated assault, or DUI offenses, may be awarded up to \$50,000 in the aggregate.

Section 52. Section **63-25a-414** is amended to read:

**63-25a-414. Notification of claimant -- Suspension of proceedings.**

(1) The Reparations Office shall immediately notify the claimant in writing of any decision and shall forward to the Division of Finance a certified copy of the decision and a warrant request for the amount of the claim. The Division of Finance shall pay the claimant the amount submitted to the division, out of the ~~[appropriations from the Crime Victims' Reparations Trust Fund]~~ fund. If ~~[funds]~~ monies in the ~~[trust]~~ fund are temporarily depleted, claimants entitled to receive awards shall be placed on a waiting list and shall receive their awards as funds are available in the order in which their claims were awarded.

(2) The reparations officer may suspend the proceedings pending disposition of a criminal prosecution that has been commenced or is imminent.

Section 53. Section **63-25a-419** is amended to read:

**63-25a-419. Assignment of recovery -- Reimbursement.**

(1) By accepting an award of reparations, the victim automatically assigns to the state,

subject to the provisions of Subsection (2), all claims against any third party to the lesser of:

- (a) the amount paid by the state; or
- (b) the amount recovered from the third party.

(2) The board, with the concurrence of the director, may reduce the state's right of reimbursement if it is determined that the reduction will benefit the ~~[trust]~~ fund.

(3) The state reserves the right to make a claim for reimbursement on behalf of the victim and the victim shall not impair the state's claim or the state's right of reimbursement.

Section 54. Section **63-25a-428** is amended to read:

**63-25a-428. Purpose -- Not entitlement program.**

(1) Crime Victims' Reparations is a program with the purpose to assist victims of criminally injurious conduct. Reparation to a victim is limited to the monies available in the ~~[Crime Victims' Reparations Trust Fund]~~ fund.

(2) This program is not an entitlement program. Awards may be limited or denied as determined appropriate by the board. Failure to grant an award does not create a cause of action against Crime Victims' Reparations, the state, or any of its subdivisions. There is no right to judicial review over the decision whether or not to grant an award.

(3) A cause of action based on a failure to give or receive the notice required by this chapter does not accrue to any person against the state, any of its agencies or local subdivisions, any of their law enforcement officers or other agents or employees, or any health care or medical provider or its agents or employees. The failure does not affect or alter any requirement for filing or payment of a claim.

Section 55. Section **63-38-8** is amended to read:

**63-38-8. End of fiscal year -- Unexpended balances -- Funds not to be closed out -- Pending claims -- Transfer of amounts from item of appropriation.**

(1) As used in this section, "transaction control number" means the unique numerical identifier established by the Department of Health to track each medical claim, which indicates the date upon which the claim is entered.

(2) On or before August 31 of each fiscal year, the director of the Division of Finance shall close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature, except:

- (a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act as:

- 1578 (i) enterprise funds;  
1579 (ii) internal service funds;  
1580 (iii) trust and agency funds;  
1581 (iv) capital projects funds;  
1582 (v) college and university funds;  
1583 (vi) debt service funds; and  
1584 (vii) permanent funds;  
1585 (b) appropriations made to the Legislature and its committees;  
1586 (c) restricted special revenue funds, unless specifically directed to close out the fund in the  
1587 fund's enabling legislation;  
1588 ~~[(e)]~~ (d) acquisition and development funds appropriated to the Division of Parks and  
1589 Recreation;  
1590 ~~[(d)]~~ (e) funds encumbered to pay purchase orders issued prior to May 1 for capital  
1591 equipment if delivery is expected before June 30;  
1592 ~~[(e)]~~ (f) unexpended and unencumbered balances of appropriations that meet the  
1593 requirements of Section 63-38-8.1; and  
1594 ~~[(f)]~~ (g) any other appropriations excepted by statute or by an annual appropriations act.  
1595 (3) (a) Liabilities and related expenses for goods and services received on or before June  
1596 30 shall be recognized as expenses due and payable from appropriations made prior to June 30.  
1597 (b) The liability and related expense shall be recognized within time periods established  
1598 by the Division of Finance but shall be recognized not later than August 31.  
1599 (c) Liabilities and expenses not so recognized may be paid from regular departmental  
1600 appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and  
1601 unencumbered balances of appropriations for the years in which the obligation was incurred.  
1602 (d) No amounts may be transferred from an item of appropriation of any department,  
1603 institution, or agency into the Capital Projects Fund or any other fund without the prior express  
1604 approval of the Legislature.  
1605 (4) (a) For purposes of this chapter, claims processed under the authority of Title 26,  
1606 Chapter 18, Medical Assistance Act, may not be considered a liability to the state for budgetary  
1607 purposes until they are received by the Division of Health Care Financing.  
1608 (b) The transaction control number recorded on each claim invoice by the division is

considered the date of receipt and is the date that liability is recognized by the state.

Section 56. Section **63-63a-4** is amended to read:

**63-63a-4. Reparation fund -- Victim reparation and specific appropriations.**

(1) In this section:

(a) "Reparation fund" means the Crime Victim Reparation [~~Trust~~] Fund.

(b) "Safety [~~fund~~] account" means the Public Safety Support [~~Fund~~] Account.

(2) (a) There is created [~~an expendable trust~~] a restricted special revenue fund known as the "Crime Victim Reparation [~~Trust~~] Fund" to be administered and distributed as provided in this chapter by the Reparations Office under Title 63, Chapter 25a, Part 4, Crime Victims' Reparations Act, in cooperation with the Division of Finance.

(b) Monies deposited in this fund are for victim reparations, other victim services, and, as appropriated, for administrative costs of the Reparations Office under Title 63, Chapter 25a, Part 4, Crime Victims' Reparations Act.

(3) (a) There is created a restricted [~~revenue fund~~] account in the General Fund known as the Public Safety Support [~~Fund~~] Account to be administered and distributed by the Department of Public Safety in cooperation with the Division of Finance as provided in this chapter.

(b) Monies deposited in this [~~fund~~] account shall be appropriated to:

(i) the Division of Peace Officer Standards and Training (POST) as described in Title 53, Chapter 6, Peace Officer Standards and Training Act; and

(ii) the Office of the Attorney General for the support of the Utah Prosecution Council established in Title 67, Chapter 5a, and the fulfillment of the council's duties.

(4) The Division of Finance shall allocate from the collected surcharge established in Section 63-63a-1:

(a) 35% to the reparation fund, but not to exceed \$2,500,000 for fiscal year 1993-94;

(b) 18.5% to the safety [~~fund~~] account for POST, but not to exceed the amount appropriated by the Legislature; and

(c) 3% to the safety [~~fund~~] account for support of the Utah Prosecution Council, but not to exceed the amount appropriated by the Legislature.

(5) (a) In addition to the funding provided by other sections of this chapter, a percentage of the income earned by inmates working for correctional industries in a federally certified private sector/prison industries enhancement program shall be deposited in the reparation fund.

(b) The percentage of income deducted from inmate pay under Subsection (5)(a) shall be determined by the executive director of the Department of Corrections in accordance with the requirements of the private sector/prison industries enhancement program.

(6) (a) In addition to the money collected from the surcharge, judges are encouraged to, and may in their discretion, impose additional reparations to be paid into the reparation fund by convicted criminals.

(b) The additional discretionary reparations may not exceed the statutory maximum fine permitted by Title 76, Utah Criminal Code, for that offense.

Section 57. Section **63-73-21** is amended to read:

**63-73-21. Utah Geological Survey Sample Library Fund.**

(1) There is created [~~an expendable trust~~] a restricted special revenue fund known as the "Utah Geological Survey Sample Library [~~Trust~~] Fund."

(2) The fund consists of monies from the following revenue sources:

(a) donations or contributions from individuals, companies, organizations, or government entities; and

(b) interest generated by the fund.

(3) The director shall administer the fund.

(4) (a) Donations and other contributions to the fund and unallocated interest as provided in Subsection (5)(d) shall constitute the fund's principal.

(b) The principal may be expended only with the concurrence of the board.

(5) (a) Interest generated by the fund may be expended to support the sample library as provided in Subsections (5)(b) through (d).

(b) For the first two years of the fund's existence, interest generated by the fund shall accrue to the fund and may not be expended.

(c) After two years, an amount of money equal to or less than the interest generated by the fund in the previous fiscal year may be expended annually in support of the sample library.

(d) Funds that are eligible to be spent, but remain unallocated at the end of any fiscal year, revert to the fund and become part of the fund's principle.

Section 58. Section **63C-9-502** is amended to read:

**63C-9-502. Fund created -- Donations.**

(1) There is created a restricted special revenue fund entitled the "State Capitol Fund."

1671 (2) The fund consists of monies generated from the following revenue sources:

1672 (a) any donations, deposits, contributions, gifts, money, and items of value received from  
1673 private persons, foundations, or organizations;

1674 (b) appropriations made to the fund by the Legislature; and

1675 (c) monies received by the board from the federal government.

1676 (3) (a) The fund shall earn interest.

1677 (b) All interest earned on fund monies shall be deposited into the fund.

1678 (4) The board may use fund monies to:

1679 (a) acquire historical and other items to furnish the capitol hill facilities;

1680 (b) pay for the repair and maintenance of the capitol hill facilities and capitol hill grounds;

1681 (c) pay for the rehabilitation of the capitol hill facilities and capitol hill grounds; and

1682 (d) fund all costs incurred in complying with this chapter.

1683 Section 59. Section **65A-8-6.1** is amended to read:

1684 **65A-8-6.1. Wildland Fire Suppression Fund created.**

1685 (1) There is created [~~an expendable~~] a private-purpose trust fund known as the "Wildland  
1686 Fire Suppression Fund."

1687 (2) The fund shall be administered by the division to pay fire suppression and  
1688 presuppression costs on eligible lands within unincorporated areas of counties.

1689 (3) The contents of the fund shall include:

1690 (a) payments by counties pursuant to written agreements made under Section 65A-8-6.2;

1691 (b) interest and earnings from the investment of fund monies; and

1692 (c) money appropriated by the Legislature.

1693 (4) Fund monies shall be invested by the state treasurer with the earnings and interest  
1694 accruing to the fund.

1695 (5) (a) A maximum level of \$8,000,000 is established for the fund.

1696 (b) (i) Except as provided in Subsection (5)(b)(ii), if the amount of money in the fund  
1697 equals or exceeds \$8,000,000 on March 31, no assessments may be charged for the following year.

1698 (ii) The waiver of assessments provided in Subsection (5)(b)(i) does not apply to any  
1699 equity payment required by Section 65A-8-6.2.

1700 Section 60. Section **67-4a-405** is amended to read:

1701 **67-4a-405. Deposit of funds.**

(1) (a) There is created [~~an expendable~~] a private-purpose trust fund entitled the "Unclaimed Property [~~Expendable~~] Trust Fund."

(b) The fund consists of all funds received under this chapter, including the proceeds from the sale of abandoned property.

(c) The fund shall earn interest.

(2) The administrator shall:

(a) pay any legitimate claims or deductions authorized by this chapter from the fund;

(b) before the end of the fiscal year, estimate the amount of money from the fund that will ultimately be needed to be paid to claimants; and

(c) at the end of the fiscal year, transfer any amount in excess of that amount to the Uniform School Fund, except that unclaimed restitution for crime victims shall be transferred to the Crime [~~Victims' Reparations Trust~~] Victim Reparation Fund.

(3) Before making any transfer to the Uniform School Fund, the administrator may deduct from the fund:

(a) amounts appropriated by the Legislature for administration of this chapter;

(b) any costs incurred in connection with the sale of abandoned property;

(c) costs of mailing and publication in connection with any abandoned property;

(d) reasonable service charges; and

(e) costs incurred in examining records of holders of property and in collecting the property from those holders.

Section 61. Section **67-5a-8** is amended to read:

**67-5a-8. Administration.**

(1) (a) The administration costs of this chapter, including council staff compensation, shall be funded from appropriations made by the Legislature to the Office of the Attorney General for the support of the council from the Public Safety Support [~~Fund~~] Account established in Section 63-63a-4.

(b) Funds available from other sources may also be appropriated by the Legislature to the Office of the Attorney General for the administration of this chapter.

(2) In exercising its duties, the council shall minimize costs of administration and utilize existing training facilities and resources where possible so the greatest portion of the funds available are expended for training prosecuting attorneys.



(3) The council may reimburse council staff for travel and per diem expenses from the appropriations made from the Public Safety Support ~~[Fund]~~ Account to the Office of the Attorney General for the support of the council, in an amount not to exceed the amounts approved by the director of the Division of Finance.

Section 62. Section **71-11-8 (Effective 07/01/02)** is amended to read:

**71-11-8 (Effective 07/01/02). Utah Veterans' Nursing Home Fund.**

(1) There is created a restricted special revenue fund entitled the "Utah Veterans' Nursing Home ~~[Expendable Trust]~~ Fund" to be administered by the division for the benefit of the home and its residents.

(2) All cash donations, gifts, or bequests shall be deposited in the ~~[trust]~~ fund and used according to the wishes of the donor.

(3) All funds received by the home from federal or state agencies, individual insurance reimbursement, or cash payments shall be deposited in the ~~[trust]~~ fund.

Section 63. Section **71-11-9** is amended to read:

**71-11-9. Disposition of deceased resident's property.**

(1) All money or other personal property of a resident held by the home which is left on the premises of the home shall, upon the death of the resident, be held in trust to be paid or delivered to the spouse, children, grandchildren, or parent of the resident upon the presentation of proof of relationship. Any funds of a deceased resident may be disbursed for the payment of funeral expenses or any obligation owed to the home.

(2) Property owned by a deceased resident of the home who dies without heirs or next-of-kin not disposed of by will shall become the property of the home and deposited in the ~~[trust]~~ fund, subject to the right of any heir to reclaim the property within five years after the resident's death upon the presentation of proof of relationship.

Section 64. Section **73-5-1.5** is amended to read:

**73-5-1.5. Water Commissioner Fund.**

(1) There is created ~~[an expendable]~~ a private-purpose trust fund known as the "Water Commissioner Fund."

(2) The fund consists of assessments paid to the state engineer by water users pursuant to Subsection 73-5-1(3).

(3) (a) The fund shall earn interest.

(b) Interest earned on fund monies shall be deposited into the fund.

(4) The state engineer shall use fund monies to pay for salary and expenses of water commissioners and other expenses related to the distribution of water specified in Subsection 73-5-1(3).

Section 65. Section **76-10-922** is amended to read:

**76-10-922. Antitrust Revolving Account.**

(1) There is created within the General Fund [~~an~~] a restricted account to be known as the "Antitrust Revolving Account" for the purpose of providing funds to pay for any costs and expenses incurred by the attorney general in relation to actions under state or federal antitrust laws, which account shall lapse only to the extent that it exceeds the sum of one million dollars.

(2) All monies received by the state or its agencies by reason of any judgment, settlement, or compromise as the result of any such action commenced by the attorney general, after payment of any costs or fees allocated by the court, shall be deposited to the Antitrust Revolving Account except as otherwise provided in this section.

(3) The Legislature may make annual appropriations to the attorney general from the Antitrust Revolving Account or from the General Fund, to such extent as may be required for the administration and enforcement of the antitrust laws. These funds shall be in addition to such other funds as may be appropriated to the attorney general for the administration and enforcement of the laws of this state.

(4) Any monies recovered by the attorney general based on an expenditure or loss from a specific cash fund shall be credited to that fund to the extent of the expenditure or loss. Any monies recovered by the attorney general on behalf of any private person or public body other than the state shall be paid to such persons or bodies. However, prior to any such credit or payment, any expenses advanced by the attorney general in any of the above actions shall be credited to the Antitrust Revolving Account.

Section 66. Section **77-32-502** is amended to read:

**77-32-502. Indigent Inmate Trust Fund -- Creation.**

(1) There is created [~~an expendable~~] a private-purpose trust fund known as the "Indigent Inmate Trust Fund" to be disbursed by the Division of Finance at the direction of the board and in accordance with contracts made under Section 77-32-402.

(2) Monies deposited in this trust fund only shall be used:

(a) to pay for the representation, costs, and expenses of legal defense counsel for an indigent inmate in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501 who is charged with having committed a crime within the facility, and who will require defense counsel; and

(b) for administrative costs pursuant to Section 77-32-401.

(3) The trust fund consists of:

(a) proceeds received from counties that impose the additional tax levy by ordinance under Subsection 77-32-501(5) which shall be the total county obligation for payment of costs listed in Subsection (2) for defense of indigent inmates;

(b) appropriations made to the fund by the Legislature; and

(c) interest and earnings from the investment of fund monies.

(4) Fund monies shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) In any calendar year in which the fund runs a deficit, or is projected to run a deficit, the board shall request a supplemental appropriation from the Legislature in the following general session to pay for the deficit. The state shall pay any or all of the reasonable and necessary monies for the deficit into the Indigent Inmate Trust Fund.

(6) Notwithstanding Subsection (1), any fund balance in excess of \$1,000,000 remaining in the trust fund as of June 30 of any fiscal year shall be transferred to the General Fund.

Section 67. Section **77-32-601** is amended to read:

**77-32-601. Establishment of Indigent Capital Defense Trust Fund -- Use of fund -- Compensation for indigent legal defense from fund.**

(1) For purposes of this part, "fund" means the Indigent Capital Defense Trust Fund.

(2) There is established ~~[an expendable]~~ a private-purpose trust fund known as the "Indigent Capital Defense Trust Fund" which shall be nonlapsing and shall be disbursed by the Division of Finance at the direction of the board and subject to the provisions of this chapter.

(3) The fund consists of:

(a) monies received from participating counties as provided in Sections 77-32-602 and 77-32-603;

(b) appropriations made to the fund by the Legislature as provided in Section 77-32-603; and

(c) interest and earnings from the investment of fund monies.

(4) Fund monies shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) The fund shall be used to assist participating counties with financial resources, as provided in Subsection (6), to fulfill their constitutional and statutory mandates for the provision of an adequate defense for indigents prosecuted for the violation of state laws in cases involving capital felonies.

(6) Monies allocated to or deposited in this fund shall be used only:

(a) to reimburse participating counties for expenditures made for an attorney appointed to represent an indigent, other than a state inmate in a state prison, prosecuted for a capital felony in a participating county; and

(b) for administrative costs pursuant to Section 77-32-401.

Section 68. Section **77-32-701** is amended to read:

**77-32-701. Establishment of Indigent Felony Defense Trust Fund -- Use of fund -- Compensation for indigent legal defense from fund.**

(1) For purposes of this part, "fund" means the Indigent Felony Defense Trust Fund.

(2) There is established [~~an expendable~~] a private-purpose trust fund known as the "Indigent Felony Defense Trust Fund" which shall be nonlapsing and shall be disbursed by the Division of Finance at the direction of the board and subject to the provisions of this chapter.

(3) The fund consists of:

(a) monies received from participating counties as provided in Sections 77-32-702 and 77-32-703;

(b) a one-time appropriation by the Legislature; and

(c) interest and earnings from the investment of fund monies.

(4) Fund monies shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) The fund shall be used to assist participating counties with the financial resources, as provided in Subsection (6), to fulfill their constitutional and statutory mandates for the provision of an adequate defense for indigents prosecuted for the violation of state laws in cases involving felony offenses.

(6) Monies allocated to or deposited in this fund shall be used only:

(a) to reimburse participating counties for expenditures made for an attorney appointed to represent an indigent, other than a state inmate in a state prison, prosecuted for a felony in a participating county; and

(b) for administrative costs pursuant to Section 77-32-401.

Section 69. Section **78-14-12** is amended to read:

**78-14-12. Division to provide panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license fees.**

(1) (a) The division shall provide a hearing panel in alleged medical liability cases against health care providers as defined in Section 78-14-3, except dentists.

(b) (i) The division shall establish procedures for prelitigation consideration of medical liability claims for damages arising out of the provision of or alleged failure to provide health care.

(ii) The division may establish rules necessary to administer the process and procedures related to prelitigation hearings and the conduct of prelitigation hearings in accordance with Sections 78-14-12 through 78-14-16.

(c) The proceedings are informal, nonbinding, and are not subject to Title 63, Chapter 46b, Administrative Procedures Act, but are compulsory as a condition precedent to commencing litigation.

(d) Proceedings conducted under authority of this section are confidential, privileged, and immune from civil process.

(2) (a) The party initiating a medical liability action shall file a request for prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78-14-8.

(b) The request shall include a copy of the notice of intent to commence action. The request shall be mailed to all health care providers named in the notice and request.

(3) (a) The filing of a request for prelitigation panel review under this section tolls the applicable statute of limitations until the earlier of 60 days following the division's issuance of an opinion by the prelitigation panel, or 60 days following the termination of jurisdiction by the division as provided in this subsection. The division shall send any opinion issued by the panel to all parties by regular mail.

(b) (i) The division shall complete a prelitigation hearing under this section within 180

days after the filing of the request for prelitigation panel review, or within any longer period as agreed upon in writing by all parties to the review.

(ii) If the prelitigation hearing has not been completed within the time limits established in Subsection (3)(b)(i), the division has no further jurisdiction over the matter subject to review and the claimant is considered to have complied with all conditions precedent required under this section prior to the commencement of litigation.

(c) (i) The claimant and any respondent may agree by written stipulation that no useful purpose would be served by convening a prelitigation panel under this section.

(ii) When the stipulation is filed with the division, the division shall within ten days after receipt enter an order divesting itself of jurisdiction over the claim, as it concerns the stipulating respondent, and stating that the claimant has complied with all conditions precedent to the commencement of litigation regarding the claim.

(4) The division shall provide for and appoint an appropriate panel or panels to hear complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of medical liability. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state of Utah, and who has completed division training regarding conduct of panel hearings;

(b) (i) one member who is a licensed health care provider listed under Section 78-14-3, who is practicing and knowledgeable in the same specialty as the proposed defendant, and who is appointed by the division in accordance with Subsection (5); or

(ii) in claims against only hospitals or their employees, one member who is an individual currently serving in a hospital administration position directly related to hospital operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel hearings.

(5) (a) Each person listed as a health care provider in Section 78-14-3 and practicing under a license issued by the state, is obligated as a condition of holding that license to participate as a member of a medical liability prelitigation panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

(b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.

(c) A licensee whom the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000.

(d) A licensee whom the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000, and is guilty of unprofessional conduct.

(e) All fines collected under Subsections (5)(c) and (d) shall be deposited in the Physicians Education ~~[Account]~~ Fund created in Section 58-67a-1.

(6) Each person selected as a panel member shall certify, under oath, that he has no bias or conflict of interest with respect to any matter under consideration.

(7) Members of the prelitigation hearing panels shall receive per diem compensation and travel expenses for attending panel hearings as established by rules of the division.

(8) (a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78-14-16.

Section 70. **Effective date.**

This act takes effect on July 1, 2002.

**Legislative Review Note**

**as of 1-14-02 11:06 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**